

3015

No. 15280

United States  
Court of Appeals  
for the Ninth Circuit

MILES H. ROBINSON,

Appellant,

vs.

R. W. STEVENS, et al.,

Appellees.

Transcript of Record  
In Four Volumes

Volume II  
(Pages 445 to 864)

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Appeal from the United States District Court for the  
Eastern District of Washington,  
Southern Division.



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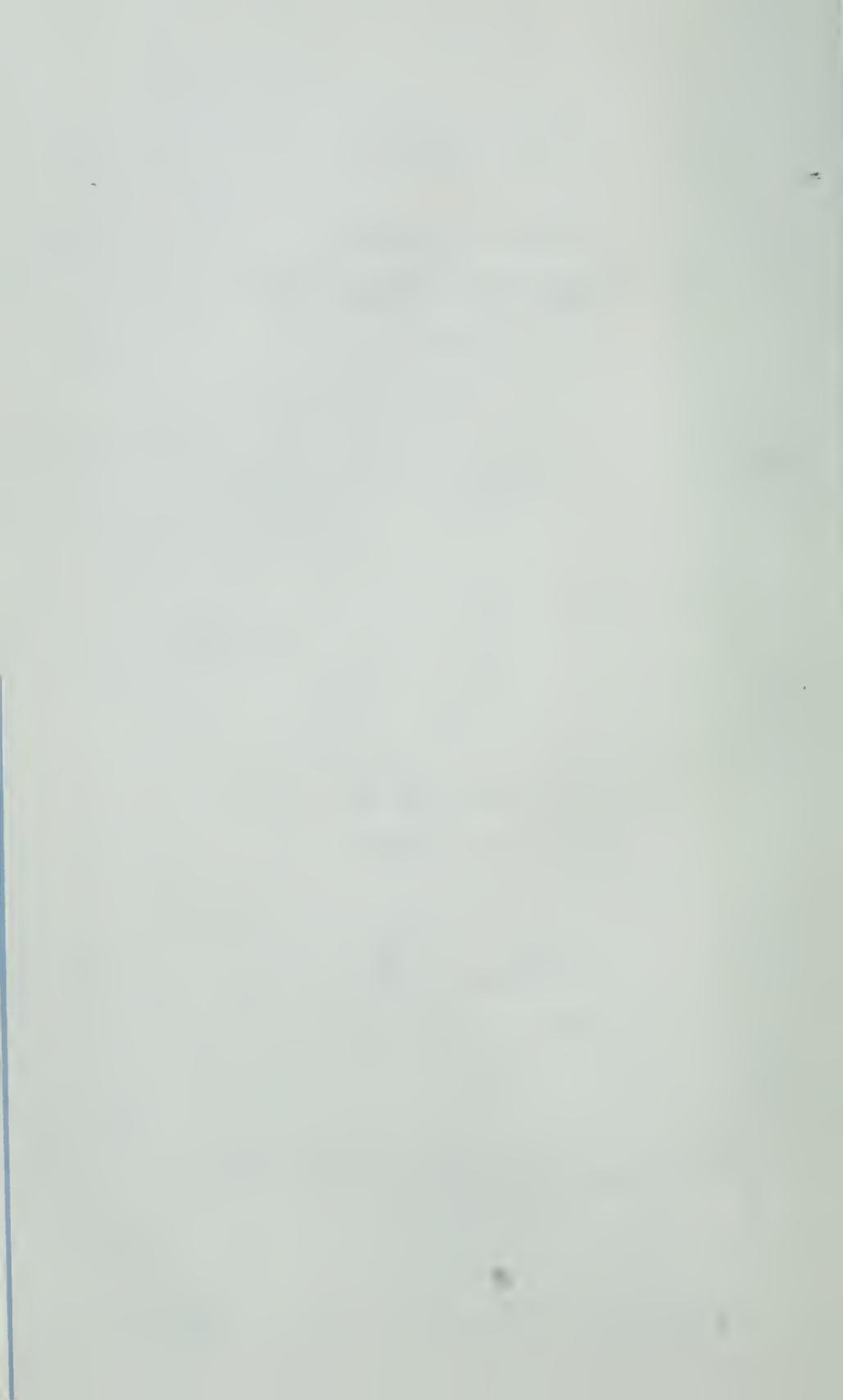
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Appeal from the United States District Court for the  
Eastern District of Washington,  
Southern Division.



(Testimony of Miles H. Robinson.)

“Q. I will now read the portions you have checked off as pertaining to Dr. Miles H. Robinson:

“ ‘Appeal of Dr. Miles H. Robinson, Walla Walla, Washington.’

“ ‘Dr. Lull read the following telegram which he has sent at the request of the [742] chairman rendering the decision of the Council with respect to the appeal of Dr. Miles H. Robinson from the decisions of the Walla Walla Valley Medical Society and Washington State Medical Association, expelling him from membership in those organizations.

“ ‘The appeal to the Judicial Council of the American Medical Association of Dr. Miles H. Robinson, Walla Walla, Washington, from the decision of the Washington State Medical Association by which Dr. Robinson was expelled from membership in the Washington State Medical Association and the Walla Walla Society sustained by the Judicial Council, and the decisions of the constituent and component societies in this matter are reversed.

“ ‘Dr. Lull stated that three telegrams had been sent addressed to Dr. R. H. Benson, president of the Washington State Medical Association; Dr. Morton W. Tompkins, president of the Walla Walla Valley Medical Society; and Dr. Miles H. Robinson, and had been signed Edward R. [743] Cunniffe, M.D., chairman, Judicial Council, American Medical Association.

“ ‘Mr. Holloway informed the Council that Mr. Ralph Neill, executive secretary of the Washington

(Testimony of Miles H. Robinson.)

State Medical Association, had asked him what the effect of the decision was and he had told Mr. Neill that the whole expulsion proceeding was abrogated.

“ ‘After discussion, during which it was pointed out that the Council had never found Dr. Robinson innocent but that the procedure of the County and State Societies was wrong throughout, it was moved by Dr. Donaldson, seconded by Dr. Lukins, and carried, that a letter should be sent to Dr. Robinson telling him that the effect of the ruling of the Judicial Council on his appeal is to place his situation in status quo as of the time prior to the decision by the County Society, and he is still a member, and that copies of the letter should be sent to the presidents of the County and State Societies. The Chairman stated that he [744] could write such a letter.’ ”

Mr. Rosling interposed: “Is that could or would?”

“Mr. Schwartz: Could.

“The Witness: Mr. Schwartz, may I volunteer a statement there? That last sentence indicates the position in which I find myself in attempting to answer this subpoena completely. The chairman stated that he could write such a letter. I have no record that he did write the letter, or——

“Mr. Schwartz: I see.”

And I believe that that concludes the pertinent portions of the deposition at this time.

Mr. Rosling: And to what page did you read?

Mr. Sembower: To Page 53, eight lines from the top.

(Testimony of Miles H. Robinson.)

Direct Examination

(Continued)

By Mr. Sembower:

Q. Dr. Robinson, I will ask you at this time if you ever received such a letter as was described in the minutes of the Judicial Council which I have just read, if you recall?

A. Never, never received any such letter. [745]

\* \* \*

Q. Dr. Robinson, at the time of the letters which are exhibits in this case written by Dr. Keyes to Drs. Benson and Cunniffe, had you received any information from any of the members of the local society or the state association as to the position being taken by those associations with respect to this decision?

A. I had a conversation with Dr. Keyes on the telephone about this time.

Q. Did you telephone him or did he telephone you? [752]

A. I telephoned him.

Q. At his home or his office?

A. I couldn't tell you. Probably his office.

Q. Please tell us the substance of that telephone conversation, if you recall?

A. Well, I had received Mr. Rosling's letter and I understood from that letter that all I had to do now was to pay my dues, make sure my dues were paid, and I would be back in good standing and

(Testimony of Miles H. Robinson.)

could get my hospital privileges back. So I had two things in mind at the time; one was to pay my dues right away, which I did very soon, and the other thing was I called Dr. Keyes, as I remember, and I have a note of it that I made at the time, and told him that I had got this letter from Mr. Rosling and that I supposed everything was all right. And he told me that he had five letters off to various people and that he had a letter off to Benson and Cunniffe, and he didn't say who else he had them off to, and that he had had no answers from any of them and the society was not going to act on the basis of an unsigned telegram that had come in February the 1st, a few days before.

Q. By that, did he refer to the telegram which had been received from Dr. Cunniffe of the American Medical Association? [753]

A. He didn't—well, I referred to the telegram I had got. I didn't understand from him whether he had got one or not, but he called it an unsigned telegram and I gathered he meant it was not a hand-written signature to something.

But, in any case, the society would not act on that, and he may have said some other things there, I just don't recollect them at the minute.

Q. Then was that the completion of that conversation?

A. Well, that was the main substance of one of my conversations with him.

Q. Did you have any other conversations with him relative to this matter about near this time?

(Testimony of Miles H. Robinson.)

A. Well, I was calling him regularly every week or two. The next thing I remember was paying my dues. I sent my dues in to Mr. Fullerton, the secretary of the society, and I never heard anything back, there was no acknowledgment for two or three weeks, and I called Dr. Keyes about it and he said, "Oh, we got your check, all right." I said, "You haven't cashed it, why not?" "Well," he said, "the check is over in the bureau office there." He says, "You can go over and get it if you want." And I said, "Well, I don't want the check, I want you to cash it."

Well, that is all we had to say on that [754] subject.

Mr. Sembower: I have a little more legible copy now of Plaintiff's Exhibit 165.

The Clerk: 168, isn't it?

The Court: 168?

Mr. Sembower: 168.

The Court: Shouldn't that be substituted for the copy you had in before?

Mr. Sembower: I think it should be.

The Clerk: Are they both there?

Mr. Sembower: They are both here.

The Court: Just withdraw the former one and put in the more legible copy and it will be Plaintiff's 168.

Mr. Sembower: Yes.

A. I recall further, if I may on that——

Q. What does that refer to now?

A. My conversation.

(Testimony of Miles H. Robinson.)

The Court: The conversation?

A. With Keyes, Dr. Keyes.

Q. (By Mr. Sembower): With Dr. Keyes.

A. When he said that "We can't act on this unsigned telegram," I said, "Well, won't you call Dr. Cunniffe in New York, the Chairman of the AMA Council?" I said, "Telephone him. It is hard to get action out of these people unless you go after them, and," I said, "I will be glad to pay for the telephone call at my own expense [755] if you would just call them and let him confirm over the telephone that he really did send this telegram reinstating me in the society."

And I remember very well what he said, he said, "Well," he said, "that is a good idea, Miles." He said, "We will take it under advisement, as the big shots say." [756]

\* \* \*

Q. Dr. Robinson, what at this stage of the matter did you do further with respect to the hospitals?

A. Oh, yes. Oh, just as soon as Mr. Rosling's letter came through of February 14th, within a few days, I believe, here in 1952, I wrote both hospitals and told them that the AMA had reversed everything, and I think I enclosed a copy of Mr. Rosling's letter as authority that I was now eligible for membership, and I told them I had paid my dues and I asked them to give me back my hospital privileges.

(Testimony of Miles H. Robinson.)

Q. Did you receive any response from them, if you remember?

A. Yes, I received no response at all from St. Mary's [762] Hospital, but the General Hospital, as I recall, about this time told me I could bring my patients to their hospital. Now, it may have been that they told me that a little later, but I think it was about this time. The letter will show. [763]

\* \* \*

Mr. Sembower: I will read this exhibit, Plaintiff's Exhibit 182, a letter from L. E. Hubbs, Manager, Walla Walla General Hospital, to Miles H. Robinson, M.D.:

"Dear Doctor Robinson:

"As far as the management of the Walla Walla General Hospital is concerned, you may bring your patients to this hospital."

Q. Dr. Robinson, referring to Plaintiff's Exhibit 182, which has just been read, after you received this letter, what did you do? [775]

A. Well, the next time I had a patient to hospitalize, I did so at the General Hospital.

Q. Did you discuss the matter any further with St. Mary's Hospital?

A. Yes, I did; I telephoned.

Q. And who did you telephone at St. Mary's, if you recall?

A. Yes, I spoke to the Sister Superior down at St. Mary's.

Q. Had you talked with her previously so you recognized her voice?

(Testimony of Miles H. Robinson.)

A. Yes, she had a strong French accent, I knew her voice very well.

Q. Will you tell us, in substance, what you said to her and what she said to you?

A. Well, I reminded her that I had written her some week or weeks before telling her that I was now reinstated in the society, to the best of my knowledge, and asked her why she hadn't answered my letter, and she said—

Q. To what letter do you refer?

A. Well, I think I wrote her on February the 18th or around then enclosing Mr. Rosling's letter and the photostat of the AMA telegram, and, well, the letter will show.

Q. I just wanted to identify it so we know what you are testifying about. What did she then say about the letter, if anything?

A. I remember very well. She said, "The doctors don't want [776] you back." And I said, "I suppose you mean the doctors on the staff at St. Mary's?" and she said, "Yes."

And then I said, "Well—" Well, there was a couple of conversations I had with her, but in this conversation or in another a little later, I said, "Has the matter been brought up at a staff meeting?" and she said, "No." And I said, "Well, don't you think you could bring it up at a staff meeting?" and she said, "Well, we don't have to take you back if we don't want to. We can take anybody we want or not take anybody that we want, and we don't have to take you back."

(Testimony of Miles H. Robinson.)

And that is all that was said in the conversation.

Q. You stated that you had another conversation with her on another occasion. When was that, if you recall?

A. Well, I don't recall at the moment, but it was essentially the same subject and the same things were said. [777]

\* \* \*

Q. Dr. Robinson, with reference to the exhibit just read, No. 195, did you subsequently receive a copy of the constitution and bylaws referred to in the letter? A. Yes.

Q. Approximately when did you receive that, if you recall?

A. I really can't say whether it was a week or two or a month, but I think the record shows when this did come in.

Q. Well, did you have, prior to this time, a copy of the bylaws and constitution of the state association?

A. We looked that up last night, I think it was, and I have a letter from Mr. Fullerton, or a note, memorandum by him that he sent me a copy a few days or a week, maybe, before the hearing at Los Angeles in 1951.

Q. A copy of the bylaws and constitution of the state association?

A. Well, I think, I think that is what the note says. I am not sure when it came in, but I had asked the state medical association and this letter

(Testimony of Miles H. Robinson.)

you just read refers to a new constitution that was printed up.

Mr. Rosling: You mean a new edition, not a new constitution.

A. Well, since you mentioned that, it was a new constitution. By that, I mean different, because the one that Mr. Sembower is holding in his hand is one which has a great many stapled things in it and it does not have in it the [783] bylaw establishing the state grievance committee, which was done in September of 1950, whereas the printed constitution, which is dated 1951, does have that bylaw placed in it.

Mr. Sembower: For the record, I am holding in my hand Plaintiff's Exhibit for identification—I beg your pardon, it has been admitted—Plaintiff's Exhibit 296.

Q. Dr. Robinson, did you have in your possession any other copy of the constitution and bylaws of the Washington State Medical Association other than 296 prior to the one which you received pursuant to the letter of Mr. Neill, which is Exhibit 195?

A. No, I had no other copy of the constitution.

Q. Had you made diligent efforts to secure the same?

A. Yes, I had. I called over to the state, telephoned, in fact it seems to me, in the fall of '51, and I asked for a copy of the constitution, and the question was immediately asked me, "What do you want it for?"

(Testimony of Miles H. Robinson.)

Mr. Rosling: If your Honor please, I am going to object to this until we find out who was at the other end of this line.

The Court: Yes, I think you should specify time and place and the person.

Q. (By Mr. Sembower): It is a minor point, but I will ask, Dr. Robinson, you telephoned the Washington State Medical [784] Association in Seattle? A. Yes.

Q. And when you telephoned, who did you telephone at the Association? Was it a station-to-station call, or person-to-person?

A. Well, it was a station-to-station call.

Q. And was the call then completed?

A. Yes, an employee of the state association answered.

Mr. Rosling: I object to that, your Honor. That is pure assumption on the part of the witness, and I ask the answer be stricken.

The Court: Well, I think it should be stricken.

Mr. Sembower: I think it should be.

The Court: He can say that someone answered and we can raise our own presumption.

Mr. Sembower: Really, your Honor, it is not a vital point, I will just drop the line of questioning altogether.

The Court: He made the inquiry, anyway.

Mr. Sembower: That's right, he made the inquiry. That is all we are interested in.

Mr. Rosling: Mr. Sembower, may I ask, just to refresh my recollection, was your question was

(Testimony of Miles H. Robinson.)

there any other copy other than the old copy you have there?

Mr. Sembower: Yes.

Mr. Rosling: I see. [785]

Mr. Sembower: That was the question.

Q. Dr. Robinson, did Mr. Fullerton send you a copy of the state association bylaws and constitution?

A. My recollection is he gave me a copy. I went up to his office and, I am not positive of this, but it has been so long ago, but my recollection is that he gave me one of these copies that is full of stapled additions from many years back and he said it was the only one that he had. He either gave it to me or lent it to me. I think he gave it to me.

Q. All right, we will leave that matter.

Dr. Robinson, did you have any conversations with any of the defendants with reference to the authenticity of this telegram which had been sent by the Judicial Council to the local society and the association?

A. Yes, as I mentioned earlier, I talked to Dr. Keyes about it.

Q. Did you confer with anyone else besides Dr. Keyes?

A. Well, I talked to Dr. Carlson about it also.

Q. Where did you have a conversation with Dr. Carlson, if you recall?

A. In the waiting room of his office in the Birch Street Clinic.

Q. Do you remember about when?

(Testimony of Miles H. Robinson.)

A. I really don't. It was around about this [786] time.

Q. Was there anyone else present?

A. Well, yes, his secretary was right behind the counter there.

Q. Could you tell us what you said to him, approximately, and what he said to you on that occasion?

A. All I remember about that conversation is he said, "We are waiting for further information," and he had very little to say about it.

Q. Did he say that he doubted the authenticity of the telegram?

A. Well, he repeated what Dr. Keyes had said, and this I do remember, that the society could not act on an unsigned telegram.

Q. But did he express any opinion as to whether he himself thought it was authentic or not?

Mr. Tuttle: If the Court please, let's let the witness testify. I object to the leading question.

The Court: Yes, it is leading, Mr. Sembower.

Mr. Sembower: I have Plaintiff's Exhibit 249 for identification and ask that it be admitted.

The Court: 249 is that? 249 will be admitted.

(Whereupon, the said document was admitted in evidence as Plaintiff's Exhibit No. 249.)

Q. (By Mr. Sembower): Dr. Robinson, I hand you Plaintiff's [787] Exhibit 249 and ask you if you have seen it before? A. Yes.

Q. What is that document?

(Testimony of Miles H. Robinson.)

A. That is the text of the AMA's decision which they rendered in December, 1951, at Los Angeles.

Q. Do you remember when you received it, about?

A. Yes, I remember exactly.

Q. When was that?

A. Well, this text arrived in the mail on the 29th of March, 1952, by air mail.

Q. And did you ascertain where it came from? Were you able to ascertain?

A. Oh, yes, it came in a long envelope with Dr. Cunniffe, his name and address printed in the upper left-hand corner.

Q. Of the envelope?

A. Yes, of the envelope.

Q. Is this, shall we say, the long-awaited statement of the opinion which has been referred to in numerous exhibits up to this point? A. Yes.

Q. Of the Judicial Council, if you know?

A. That's right.

Mr. Sembower: I will read Plaintiff's Exhibit 249, which states: [788]

"In the Matter of the appeal of Miles H. Robinson, M.D."—

Mr. Rosling: Pardon me, Mr. Sembower, you have started right at the beginning, have you not?

Mr. Sembower: I have.

Mr. Rosling: In other words, there was no heading, no date?

Mr. Sembower: No, Mr. Rosling. There is no

(Testimony of Miles H. Robinson.)

point in argument as long as I have asked questions of the witness.

Mr. Rosling: There is nothing improper in anything I said, your Honor.

Mr. Sembower: Does counsel object to it?

Mr. Rosling: I just want to make it clear that there is no date, no heading, or anything. I can't tell whether counsel starts with the body or whether he starts from the top of the page.

The Court: Well, all right, go ahead.

Mr. Sembower: This is an argumentative point, as you know, your Honor.

The Court: Well, I think counsel wanted it to be called to the attention of the Court that it hasn't a heading. I don't think there is anything improper in that. Of course, I am not drawing any assumption or anything, considering it as argument. [789]

\* \* \*

Q. Dr. Robinson, I show you Plaintiff's Exhibit 221 and ask you if you have seen it before?

A. Yes.

Q. What is that document? [793]

A. That is a photostat of the text of the AMA decision that I received on March 29, 1952, and, in addition—well, to explain what it is, I sent this photostat to Dr. Lull and—well, it is a little bit more than that.

I took the photostat of the text which I received and on the bottom of the photostat I typed in, "The above is a true copy of page 1, secretary, Judicial

(Testimony of Miles H. Robinson.)

Council, AMA, George Lull," and drew a line where he could put his signature in to act as a certification, and I did that on both pages and sent it back to him and he signed it, and this is his actual ink signature on the photostat and then he sent it back to me.

Q. When did you receive this back, Dr. Robinson, if you recall?

A. Well, I wrote him once or twice and I think called once about it, and it finally came back on the 18th of April, which was about three weeks after I asked for it.

Q. Did you do anything in addition after you received this certified copy back?

A. Yes, I got that to give the local society and gave them a copy of it and gave the state medical association a copy of it.

Q. Referring to Defendants' Exhibit 447 and referring to the minutes of the special meeting of the Walla Walla Valley Medical Society convened on April 8, 1952, in the classroom [794] of St. Mary's Hospital at 8 p.m., we find here the entry: [795]

\* \* \*

Q. Dr. Robinson, did you at that time have any information that a rehearing might be granted in this case, in this matter, before the Judicial Council?

A. I had no inkling or idea that anything like that was being considered.

(Testimony of Miles H. Robinson.)

Mr. Sembower: I have Plaintiff's Exhibit 198 for identification, and I ask that it be admitted.

The Court: It will be admitted.

(Whereupon, the said document was admitted in evidence as Plaintiff's Exhibit 198.)

Q. (By Mr. Sembower): Dr. Robinson, I show you Plaintiff's Exhibit 198 for identification and ask you if you have ever seen it before?

A. I have seen a copy of this letter, which is just the same as this copy.

Q. Where did you last see it? [797]

A. We obtained this on subpoena in 1953, in March of 1953.

Q. And where was the subpoena served and upon whom?

A. Well, it was served upon the Walla Walla Society here in Walla Walla in the suit which we brought in the Superior Court.

Q. To whom was the communication addressed, if you know?

A. This letter here, you mean?

Q. Yes.

A. Well, this was Appendix 4 of the brief of the Walla Walla Society requesting a rehearing from the AMA.

Q. And was it submitted by the society to the AMA?

A. Well, I assume so, but, of course, I knew nothing about this at that time and, in fact, I never saw the request for rehearing or the brief they sent

(Testimony of Miles H. Robinson.)

with it. I never saw that until we brought suit and obtained it under subpoena.

Q. But this was obtained in the service of that subpoena? A. Yes.

Q. The Wallace A. Pratt, M.D., who is the signatory of this document, is that the same Dr. Pratt who wrote the letters that were admitted in evidence this morning to your brother Walter in Vancouver and your father at Swarthmore?

A. Yes, that is the same and I, of course, recognize the signature there. [798]

Mr. Sembower: Reading from the exhibit, it is dated April 19, 1952:

“In Re—Miles C. Robinson versus the W. W. Valley Medical Society.”

A. May I say, Mr. Sembower, that is April 9th.

Mr. Sembower: Oh, I’m sorry, you are correct. I was reading the “1” as a number one.

“April 9, 1952:

“In Re—Miles C. Robinson versus the W. W. Valley Medical Society.

“This is to certify that I have known Dr. Miles C. Robinson well and his family for over ten years and at the request of the officers of the medical society conferred with him at least three times with a view of resolving the matters in dispute. To improve public relations and carry out the recommendations of the AMA the local society acting in good faith set up a grievance committee.

“The initial dispute began when a patient of Dr. Robinson’s objected to a charge of \$1.50. Dr. Rob-

(Testimony of Miles H. Robinson.)

Robinson resented the committee's recommendation that the matter be dropped. His attitude was one of defiance assuming interference in his private affairs. He refused to confer with the [799] committee and opposed any and all efforts toward reconciliation.

"It must be understood that repeated and sincere efforts were made by the society and its committee to conciliate and satisfy Dr. Robinson.

"In conclusion I might add there was abundant evidence of dissatisfaction and dispersion of his patients prior to this dispute which increased and the Doctor unfortunately believed this due to professional persecution. Decidedly such was not the case.

"/s/ WALLACE A. PRATT, M.D."

Q. Dr. Robinson, do you know to what Dr. Pratt refers in the last paragraph?

A. Well, I assume he refers to what happened after I was expelled from the medical society.

Q. Was Dr. Pratt intimately informed of your practice and his status?

A. Well, now, his office was next door to mine in the Drumheller Building, but I don't know just how he knew so much about things. His door was often shut and how he could know who came in and out of my office is a mystery to me.

The Court: I am not sure that I understand just what [800] this document is or in what connection it was written. It was secured by subpoena, you say?

(Testimony of Miles H. Robinson.)

Mr. Sembower: It was procured by subpoena and apparently it is a document which was included among those collected together and transmitted by the society in its application for rehearing.

The Court: Oh, yes; I see.

Mr. Sembower: Yes.

The Court: All right; go ahead.

Q. (By Mr. Sembower): Did Dr. Pratt have access to your lists of patients? A. No.

Q. Or did he have access to your account books?

A. No.

Q. In fact, had your practice dispersed prior to the expulsion.

A. Why, no, not at all. Well, now, I thought you meant for a minute before all this trouble began. Now, if you take before the expulsion, why, yes, there was a lot of dispersion of the practice ever since they brought these charges against me in the fall of 1950. As soon as that—well, that is my conclusion, I was going to say why. But the fact is my practice did fall off very considerably before I was expelled in the six or seven or eight months when this whole matter was going on. [801]

Q. But prior to the Edwards' complaint, what was the status of your practice?

A. Oh, everything was going first rate. There was no dispersion and there was no change in my practice until the grievance committee accused me of overcharging this patient and of threatening this man Brooks.

Q. Dr. Pratt states in this communication that

(Testimony of Miles H. Robinson.)

he has known your family for ten years. Is that a fact?

A. Well, I think we met him once in 1941 when I was in Pasco at the time we met Dr. Campbell, and I never saw him again or had anything to do with him until I came here in 1948, and I have known him casually since we came in 1948, but saw nothing of him at all in between.

Mr. Sembower: I have Plaintiff's Exhibit 197 for identification and ask that it be admitted.

The Court: It will be admitted, 197. [802]

\* \* \*

Q. Dr. Robinson, had you at this time on April the 8th, were you aware of any procedure existing for the calling of a rehearing of a case before the Judicial Council?

A. No. In fact, I was certain that such a thing could not be possible.

Q. On what did you base your certainty?

A. Well, the constitutions and bylaws of the Walla Walla society and the state society and the AMA all specify what rehearings could exist and they do not specify any rehearing of a Judicial Council of the AMA, of any decision by that Council, and, in fact, on the contrary, the AMA constitution specifies that the decisions of the Judicial Council are final.

But, in any case, I had no idea that a rehearing could take place and didn't know that anyone was contemplating one.

(Testimony of Miles H. Robinson.)

Q. And, Dr. Robinson, do you know who the Dr. Berge is who is referred to in that letter?

A. Yes.

Q. Who was he at this time?

A. He was chairman of the state grievance committee of the Washington State Medical Association, and he was also secretary or chairman, at least he was chief administrative officer, of the defense fund of the association which defends doctors against malpractice suits. [807]

\* \* \*

Q. Dr. Robinson, this exhibit is dated April 17, 1952, and it refers to the petition, "Will be heard by the Judicial Council on April 25th in Chicago." Did you at this time, April 17, 1952, have any information of any nature whatever that a rehearing was being considered? A. No.

Q. From any source, did you have any such information?

A. I had absolutely no inkling at all that any rehearing was being considered, and I learned nothing about it until the AMA wrote me on May the 6th, 1952. [813]

\* \* \*

Q. (By Mr. Sembower): Dr. Robinson, referring to Plaintiff's Exhibit 206, which is Dr. Tompkins' letter to Dr. Howard in which he states: "There are several of us here who are frankly fearful of direct violence to us or our families"; do you know of any circumstance that would give rise to that statement?

(Testimony of Miles H. Robinson.)

A. I certainly do not.

Q. Did you ever threaten violence to Dr. Tompkins?  
A. Never.

Q. Did you ever threaten any violence to any doctors, any of the doctor defendants in this case?

A. Never.

Q. Or to the members of their family?

A. No.

Q. Did any of the members of your family, to your knowledge, threaten violence against any of them?  
A. No. [817]

\* \* \*

Q. Dr. Robinson, did you receive any response to the [821] letters which are the exhibits that you sent to Dr. Brooks and to St. Mary's relative to your status on the staff there, if you recall?

A. I received no response at all from the letter to Dr. Brooks and, so far as I know, no response at all to the letter to St. Mary's.

Q. Did you have any conversations with any persons in an official position connected with St. Mary's at or about this time concerning your status?

A. Well, I had altogether two or three conversations with Sister Joseph down there between the time when the AMA telegram came on February 1st, 1952, and somewhere in July, I guess, of '52, but I have told everything that I can remember of those conversations.

Q. Did anyone at St. Mary's tell you of any reasons other than your ineligibility to membership

(Testimony of Miles H. Robinson.)

A. Never did. [827]

\* \* \*

Q. Dr. Robinson, I show you Plaintiff's Exhibit 227 and ask you if you have seen before the original of this photostatic copy? A. Yes, I have.

Q. What is it, or what was it, Dr. Robinson?

A. Well, that is the statement that I sent in to the AMA in response to their request of May the 6th, 1952.

Q. How many copies did you send to the AMA?

A. Well, I sent them either three or four. I had it mimeographed and sent them mimeographed copies.

Q. Did you send any copies of this to the society and the association?

A. I did not send any copies of that myself to the society or the association. [829]

Q. Was there any reason why you did not do so?

A. Yes. In the first hearing at Los Angeles, they had asked me to send a copy and at this rehearing they did not ask me to send a copy, and I was trying to do exactly what they asked me to do.

Q. Did you have any objection to copies being furnished by the AMA to the state association and the society?

A. No, I had no objection whatever. [830]

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Mr. Sembower: Exhibit 234 is entitled "Opinion of Judicial Council, American Medical Association, on the rehearing of the appeal of Dr. Miles H.

(Testimony of Miles H. Robinson.)

Robinson." It is a certified copy, bears the legend "Certified copy," signed George F. Lull at the bottom, and bearing the seal of the American Medical Association dated June 9, 1952:

"At the request of the Walla Walla Valley County Medical Society, the Judicial Council agreed to hear additional evidence in relation to the appeal of Dr. Miles E. Robinson from a decision of the society expelling him from membership therein. The review hearing was held in Chicago June 7, 1952, after due notices had been sent to Dr. Robinson, to the Walla Walla [831] Valley Medical Society and to the Washington State Medical Association. Supplementary data were submitted by Dr. Robinson, by the society and by the association in the form of written briefs and at the hearing representatives each of the society and the association presented oral statements. Dr. Robinson did not appear in person nor did any personal representatives appear for him. After consideration of the supplementary data presented, the Council remains convinced that the procedures providing for disciplinary measures by the constitution and bylaws of the society extant at the time this case arose were not followed. While the Council does not believe, from evidence submitted, that the irregular procedure followed resulted from any desire to do an injustice to Dr. Robinson nor in fact that the net result would have differed if strict compliance had been made with authorized procedures, the Council is constrained to reaffirm its prior opinion sustaining the appeal.

(Testimony of Miles H. Robinson.)

“The Council, it must be repeated, has no jurisdiction in an appeal case to pass on facts other than those relating to procedure and law. Whether or not, therefore, Dr. Robinson in fact [832] committed acts justifying the disciplinary action taken by the society is a matter that was not and could not be decided by the Council. Granting freely that the society had no intention or desire to perpetrate an injustice on Dr. Robinson, and that in fact it used every reasonable effort to adjust the differences that had arisen, the Council feels that when procedures for disciplining members have been established they should be strictly followed.

“The former opinion of the Council, sustaining the appeal, is affirmed.”

And it bears the typewritten signatures of Dr. Louis A. Buie, Dr. Edward R. Cunniffe, chairman; Dr. Walter F. Donaldson, Dr. Joshua B. Lukins, and Dr. Homer L. Pearson, Jr.

Q. Dr. Robinson, referring to your letter to Dr. Lull to the effect that you were not going to the meeting, did you attend the meeting?      A. No.

Q. Were the reasons which you stated to Dr. Lull the reasons that you did not attend the meeting?      A. Yes, they were.

Q. When did you receive the opinion of the AMA that I was just reading, Dr. Robinson?

A. It was enclosed in a letter from the AMA dated July 15, [833] 1952, and it came, as I remember, by regular mail and got here, I think it was—well, I know it was July 18, 1952.

(Testimony of Miles H. Robinson.)

The Court: July—

A. 18th.

The Court: 18th.

Q. (By Mr. Sembower): Did you have any information prior to July 18, 1952, of the outcome of the petition for rehearing?

A. It seems to me I heard some rumors somehow or other about the thing, but I had no definite information as to what was going to happen until I got the decision from Dr. Lull. I don't know whether those rumors were from here locally in the society—

Mr. Rosling: If your Honor please, if they are just rumors and he doesn't even know where they came from I ask that his reference to them be stricken.

The Court: They will be stricken.

Mr. Sembower: Yes, they should be stricken.

Q. Dr. Robinson, did you do anything unusual around about the time between June the 9th and July the 18th, June the 9th, when the rehearing was held, and the date on the exhibit for the judgment on the rehearing, and the date July 18th when you received the notice? A. Yes, I did. [834]

Q. What did you do?

A. Well, the rehearing was June the 7th and I waited and waited and heard nothing and I thought, well, I am in the same position I was from the Los Angeles hearing. They are going to wait two or three months or Lord knows how long before they let me know what they have done.

(Testimony of Miles H. Robinson.)

So on the 26th of June, I filed suit, a lawsuit in the Superior Court here in Walla Walla, against all these people.

Q. You say against all these people, do you refer to the defendants in the present suit?

A. The same people exactly.

Q. And the same organizations, corporate defendants?

A. Well, all except the AMA. I did not include the AMA in that suit because I really couldn't—well, I didn't include them.

Mr. Sembower: I have Plaintiff's Exhibit 230 for identification and ask that it be admitted.

The Court: What was the date of that suit, did he say?

Q. (By Mr. Sembower): What was the date?

A. June the 25th.

The Court: Well, approximately?

A. I may have said the 26th.

The Court: Well, approximately. [835]

\* \* \*

Mr. Sembower: The same letter of transmittal with the opinion attached to Dr. Leroy O. Carlson, Secretary of the Walla Walla Valley County Medical Society.

I have Plaintiff's Exhibit 238 for identification and ask that it be admitted.

The Court: It is admitted.

(Whereupon, the said letter was admitted in evidence as Plaintiff's Exhibit 238.) [838]

(Testimony of Miles H. Robinson.)

Mr. Sembower: The Exhibit 238 is a letter from Ralph H. Keyes, M.D., President, to M. H. Robinson, M.D.:

“Dear Dr. Robinson:

“At a meeting of the Board of Trustees of the Walla Walla Valley Medical Society, convened the evening of July 21, 1952, the Board, acting on the decision of the Judiciary Council of the AMA, reinstated you to membership in the Walla Walla Valley Medical Society.

“Very truly yours,

“RALPH H. KEYES,

“President.”

I have Plaintiff's Exhibit 239 for identification and ask that it be admitted.

The Court: It will be admitted.

(Whereupon, the said letter was admitted in evidence as Plaintiff's Exhibit No. 239.)

Mr. Sembower: Reading from Plaintiff's Exhibit 239, which is a photostatic copy of a letter by Morton W. Tompkins, M.D., dated July 26, 1952, to George F. Lull, M.D., American Medical Association:

“Dear Dr. Lull:

“This is to acknowledge your communication of July 17, from the Judicial Council upholding [839] their reversal in the appeal of Dr. Miles Robinson. This is also to officially notify you that Dr. Robin-

(Testimony of Miles H. Robinson.)

son has been reinstated to the Walla Walla Valley Medical Society.

“The language of your communication was somewhat surprising in that the Council stated that the local society had not followed their procedures. I appeared before the Judicial Council twice and at no times was there evidence that constitutional procedures were not followed. In fact, at the hearing, it was my impression that the Council conceded that we followed our procedures, but the setup of the State Grievance was unconstitutional and on this point the verdict of the society had to be reversed.

“As you have been informed, we are now faced with a suit for \$134,500 by Dr. Robinson. He is making much of your decision in the local papers and has sent his side of the story, true or false, to Medical Economics, who plan to use it in the October issue.

“At no time except in the hearing, has the Judicial Council given a legal resume of this [840] case and the reasons for its decision. Since the Judicial Council hears cases only on law and procedure, it would seem only proper that the local society deserves such an analysis and opinion. Any court or judge hearing a case will give an opinion and the reasons for reaching that decision, pointing out any wrong procedures followed. The decision may not be agreed with, but the reasons for the decision will be clearly stated. The Judicial Council owes the local society such a decision in detail. In fact, we

(Testimony of Miles H. Robinson.)

demand such an opinion for use in our defense of the above suit.

“It became apparent at the Chicago hearing that Mr. Hall was the only one connected with the AMA or the Judicial Council who had even read the brief we had prepared. May I suggest that Mr. Hall be commissioned to prepare such an opinion for the Judicial Council to be forwarded to us as soon as possible. I have enclosed an example of such an opinion which he may use if so desired, but anything less complete will be unacceptable.

“This matter is coming up before the House [841] of Delegates of the Washington State Medical Association in September. Changes in the State Grievance Committee setup will undoubtedly be made. For this reason may I have this opinion in my hands not later than September 1 and sooner if possible.

“To be perfectly frank, the local society feels it has had rather shabby treatment at the hands of the AMA; first in accepting this appeal before it had been referred to the State Board of Trustees; next in the extra-legal manner in which the society was treated before and at the Los Angeles hearing; but most of all in the unwarranted delay and the manner in which notification of the Judicial Council decision was finally made; and finally in the non-committal and uninformative opinion of the decision at the Chicago meeting. The very existence of our society is at stake. Your prompt action on this request will help greatly in re-establishing our con-

(Testimony of Miles H. Robinson.)

fidence in the AMA and dispel a definite feeling that the local society is being made the goat in this situation to save the face of higher organizational groups. [842]

“Your most earnest and sincere co-operation is solicited.

“Yours very truly,

“MORTON W. TOMPKINS, M.D.”

Q. Dr. Robinson, who at the time of the writing of this letter was President of the Walla Walla Valley Medical Society, if you recall?

A. Dr. Keyes was President.

Q. Dr. Robinson, had you instigated—

A. Oh, I beg your pardon, I think perhaps I made a mistake there. Dr. Page was President in 1950 and Dr. Tompkins was President in '51, that is right, and Dr. Keyes in '52. Well, I was right.

Q. Had you, Dr. Robinson, instigated press notices in the local press concerning the opinion?

A. No, indeed.

Q. Had you, as a matter of fact, instigated an article in Medical Economics relative to this matter?

A. I had nothing—they wrote me and asked me to tell them whatever I knew about it.

Q. That is, Medical Economics wrote you and asked you? A. Yes.

Q. And what did you do?

A. Well, I gave them some information about it.

Q. The information they asked for? [843]

A. Yes. [844]

(Testimony of Miles H. Robinson.)

I refer now to the depositions taken in this case on July 14, 1955, of Edwin J. Holman and George F. Lull. These were published yesterday.

The Court: All right.

Mr. Sembower: And I refer to page 24 in the deposition. I find here the following questions and answers relating—well, I will let them speak for themselves. The questions were propounded by the attorney, Mr. Schwartz, and the answers are those of Mr. Holman, who is on the legal staff of the American Medical Association. [850]

The Court: I have the original, I believe, of the deposition here.

Mr. Sembower: Yes.

The Court: And we had a problem similar to this in a protracted case which I had recently in Alaska where we had numerous depositions, and to keep the continuity counsel from both sides read excerpts from them and we had occasions when the same depositions were read from several times. In order to avoid duplication, if there is no objection, I will do that here; I will mark with a pencil the beginning and end of each excerpt as it is read. You find after you go over these depositions, after awhile, unless you check back with the reporter to find out what you have read, it is a difficult matter.

Mr. Sembower: I think that an excellent procedure to follow.

The Court: Is there any objection?

Mr. Kimball: No.

The Court: Of course, if you introduce a part

(Testimony of Miles H. Robinson.)

of it, counsel on the other side has the right to introduce the whole of the deposition or any part that pertains or connects up with the part read, at any rate.

Mr. Sembower: I think that is excellent.

I really should begin on page 23, the very last line: [851]

“Q. Did you make a search for a letter dated April 9, 1952, from one Pratt to the American Medical Association, addressed To Whom It May Concern, and reply? A. Yes.

“Q. Were you able to find them?

“A. I found a letter dated April 9, 1952, Pratt to American Medical Association, in another batch of material which I am unable to identify, except that it was in a folder marked Robinson. I find no reply.

“Q. Did you bring that letter with you?

“A. I did. This is the——

“Q. That is the letter?

“A. This is that material that was in the folder.”

That is read in connection with the letter read yesterday from Dr. Pratt to the American Medical Association.

The Court: What number is that letter? Do you have it there?

Mr. McNichols: I am attempting to find it, your Honor. [852]

The Court: What is the number?

Mr. Sembower: We are just for some reason——

Mr. Rosling: No. 198.

(Testimony of Miles H. Robinson.)

Mr. Sembower: 198.

The Court: 198.

Mr. Sembower: That is Exhibit 198.

The Court: That was the communication of Dr. Pratt in connection with the rehearing, wasn't it, or asking for rehearing?

Mr. Sembower: That is correct, yes.

The Court: Yes, I remember it. And whose is this you have just read?

Mr. Sembower: This is the deposition given by the legal officer of the AMA, showing that that letter was found in the records of the AMA.

The Court: Yes. There are two witnesses in this same deposition. It is Holman you read from?

Mr. Sembower: Holman is who I read from.

The Court: All right.

Mr. Sembower: Now, in the same deposition I refer to pages 111 to 114 in the deposition of Lull.

The Court: All right.

Mr. Sembower: That is the George F. Lull who is the General Manager and Executive Secretary of the American Medical Association. The questioner is Mr. Schwartz again [853] and this portion of the deposition relates to the minutes of the Judicial Council rehearing and I read them at this time to place in the record of the proceedings of that hearing as they appeared in the minutes of the Judicial Council of the American Medical Association.

Mr. Schwartz:

“Q. And ask if those minutes do not include matters pertaining to Dr. Robinson?

(Testimony of Miles H. Robinson.)

“A. They do.

“Q. Will you mark off the parts that pertain to him for the purpose of my reading them into the record?

“A. You want the people that were in attendance?

“Q. You can testify to that. Who were present at that meeting?

“A. Dr. Cunniffe, the Chairman; Dr. Homer Pearson, Dr. Walter F. Donaldson, Dr. J. B. Lukins and Dr. Louis A. Buie, all members of the Council. Dr. J. W. Holloway, Jr., and Mr. George E. Hall, his assistant. Also present were certain other individuals from the State of Washington. Do you want me to read them?

“Q. No, that is all right. I will read the [854] portions now that you have marked off. I will retract what I said there. I would like you to state the other persons present.

“A. Dr. R. A. Benson, Dr. Raymond L. Sech, Dr. M. Shelby Jared, Ralph W. Neill, Morton W. Tompkins, Mr. Neil Winikoff, Mr. J. W. Greger.

“Q. The part that you have marked off reads as follows:

“‘Re hearing of appeal of Dr. Miles H. Robinson, Walla Walla, Washington. The Chairman announced that in the rehearing of the appeal of Dr. Miles H. Robinson, Walla Walla, Washington, from the decision of the Walla Walla Valley Medical Society, expelling him from membership, the Council would insist that representatives of the parties

(Testimony of Miles H. Robinson.)

concerned confine themselves entirely to questions of law and procedure.

“ ‘Dr. Morton W. Tompkins presented the brief of the Walla Walla Valley Medical Society and accompanying exhibits, commented on the points set forth in [855] the brief, and answered questions from the Chairman, other members of the Council and Mr. Holloway. The Chairman asked if anyone present knew whether or not Dr. Robinson would be present at this hearing. Dr. Tompkins said he had seen Dr. Robinson on Thursday before leaving for Chicago, but Dr. Robinson did not have reservations on the plane nor did he show any sign of coming. Dr. Benson from Washington State Medical Association emphasized several points presented by Dr. Tompkins in reply to questions by the Chairman and others.

“ ‘The Chairman stated that the Judicial Council of the American Medical Association is obliged to protect the State Association, and to protect the membership in a component society. When it protects the member, it protects the society. When a member is guaranteed something in the Constitution and Bylaws, the guarantee should be lived up to, and the controversy thereunder [856] comes within the jurisdiction of the Judicial Council, and the question is, was this case tried in the proper way. After some further questions by the Chairman and members of the Council, all the representatives of the Washington State Medical Association and the Walla Walla Medical Society left the meeting.’

(Testimony of Miles H. Robinson.)

“Dr. Lull, there seems to be another—

“A. I am sorry. I haven’t seen it for several years.

“Yes. (Marking document.)”

I think that is all. On pages 3 and 4 there is another item:

“Q. The additional portion that you have just checked as pertaining to Dr. Miles H. Robinson reads as follows:

“ ‘Re hearing of appeal of Dr. Miles H. Robinson, Walla Walla, Washington. The Council continued to discuss the decision to be made in the Robinson appeal, each member offering suggestions as to how it should be written, not only to show that the [857] opinion of the Council is that the procedure followed by the County and State Societies was incorrect, and the previous decision of the Judicial Council is sustained, but also to indicate that evidence presented leads the Council to believe that the appellant is guilty; that the Council regrets that its duties as defined in the Constitution and Bylaws do not permit it to examine the case on the basis of fact.’ ”

The Court: That, I presume, might be regarded as medical-legal obiter dictum.

Mr. Sembower: Apparently so.

Q. Dr. Robinson, do you know who the Dr. Raymond L. Sech is who is mentioned among the persons present from Washington at the hearing?

A. Yes.

Q. Who is he?

(Testimony of Miles H. Robinson.)

A. At that time, and perhaps now, he was a trustee of the state medical association and former president of the state medical association and, I believe, a former delegate from the state medical association to the AMA.

Q. Do you know who Dr. M. Shelby Jared is who is mentioned [858] among those present from Washington? A. Yes.

Q. And who is he?

A. Dr. Jared is President of the Washington State Medical Bureau, also known as the Washington Physicians Service Corporation.

Q. Do you know who Mr. Neil Winikoff is whose name appears among those present from Washington?

A. Well, at that time Mr. Neil Winikoff was Secretary of the King County Medical Society in Seattle.

Mr. Rosling: Mr. Sembower, is it proper for me at this time to suggest to Dr. Robinson that I think he has the association of Dr. M. Shelby Jared confused? He was not President of the Washington Physicians Service, never has been. He was President of the King County Medical Service Corporation. Do you recall that, Doctor?

A. Well, when we took the deposition of Jared over there in Seattle in October, the deposition will show, but I understood that he was President of the State Medical Bureau, which had offices in the—well, which shared a common waiting room with the State Medical Association.

(Testimony of Miles H. Robinson.)

The Court: Go ahead.

Mr. Rosling: We will have to let it go, then, until further testimony.

Mr. Sembower: Yes, we will check the deposition and [859] bring the point out later, but we will proceed.

Q. Dr. Robinson, do you know who Mr. J. W. Greger is who appears among the Washington persons present at the hearing? A. Yes.

Q. Who is he?

A. He is Executive Secretary of the Medical Bureau in Chehalis, Washington.

Q. Dr. Robinson, after you received the opinion of the Judicial Council on the rehearing, did you do anything with respect to it?

A. (No response.)

Q. Let me ask you—ask this question: Did you communicate with the Judicial Council in any way?

A. Yes, I wrote them immediately that very day.

Q. And what was the substance of your statement to them? A. I pointed out to them—

Mr. Kimball: Is that letter introduced?

The Court: The letter would be the best evidence if any objection is made.

Mr. Sembower: Yes. Your Honor, we have found one or two letters that inadvertently were not placed on the list of exhibits and this is one of them. We thought there might not be objection. Since there is, we will offer the letter and see if counsel objects. I think that counsel has [860] been in possession of that letter, is that not correct?

(Testimony of Miles H. Robinson.)

Mr. Kimball: What is the date?

Mr. Sembower: 7-18-52, Robinson to Judicial Council. It is not on the list of exhibits.

Mr. Kimball: Isn't that Exhibit 39 in your Lull deposition?

Mr. Sembower: You mean——

Mr. Kimball: Attached to your Lull deposition, isn't that Plaintiff's Exhibit 39?

Mr. Sembower: Do you have it there?

Mr. Kimball: I'm sorry, I don't.

Mr. Sembower: What Lull deposition do you refer to, Mr. Kimball? The one I have been reading from?

Mr. Kimball: Yes.

Mr. Sembower: May I show this——

The Court: I think I remarked in the pretrial conference, and this will apply to both sides, of course, that in a case where so many documents have been presented here, it is almost inevitable that occasionally one would be overlooked inadvertently, and it is merely a question of good faith, whether there was good faith disclosure, and so far as I am concerned, I would have no objection.

Mr. Kimball: We are not objecting, either, your Honor.

The Court: And that will apply to both sides, if [861] you have overlooked something, an exhibit here and there, why, I wouldn't bar them on that account.

Mr. Kimball: We have no objection to their introducing this. It should be assigned a number.

(Testimony of Miles H. Robinson.)

The Court: We will mark that as the next number, Mr. Granger.

The Clerk: It will be Plaintiff's Exhibit 505.

The Court: 505. It will be admitted, then. [862]

\* \* \*

Q. Dr. Robinson, did you file a charge against Dr. Ralph W. Stevens in November, 1952?

A. Yes.

Q. With whom did you file that charge?

A. With the Walla Walla Society.

Q. What was the substance of the charge?

Mr. Kimball: Was that a written document, Mr. Sembower?

Mr. Sembower: That I do not know whether it was or not.

Mr. Kimball: Maybe the witness can answer that. Would you inquire of him?

Mr. Sembower: I will withdraw the question.

The Court: I think you can bring out the fact that he did make the charges without going into the contents or what they were. If they are written, of course, the writing would be the best evidence as to the contents.

Mr. Sembower: Yes.

The Court: But I think he has already answered that he did make charges. When was that date, I didn't get that?

Mr. Sembower: That was in November.

The Court: The approximate date? [864]

Q. (By Mr. Sembower): Do you remember the exact time, Dr. Robinson?

(Testimony of Miles H. Robinson.)

A. Well, it was some time in November of 1952.

The Court: That is sufficient for my purposes.

Q. (By Mr. Sembower): What did the charge involve, Dr. Robinson?

A. Well, it involved the dispensing of glasses, contrary to the ethics of the AMA.

Q. Was this the matter which you pointed out to Dr. Stevens when you had the street conversation with him and the Edwards matter was first raised by him?      A. Yes.

Q. What happened after you filed these charges?

A. The Walla Walla Society wrote me a letter stating that they had contacted Dr. Stevens and arranged for him to correct the irregularities concerned.

Mr. Kimball: If the Court please, could the letter be introduced?

The Court: Yes, if it is a letter, the letter would be the best evidence.

Mr. Sembower: I have Defendants' Exhibit 436 for identification and ask that it be admitted.

Mr. Kimball: I have no objection. I wondered if it wouldn't be orderly, though, to put the complaint in?

Mr. Sembower: Your Honor, there are many aspects to [865] this matter. We desire at this time only to raise the matter in connection with the conversation on the street in the Edwards matter.

The Court: Very well.

Mr. Rosling: If your Honor please, then I am going to object to the introduction of that because

(Testimony of Miles H. Robinson.)

I don't think it is pertinent. I think if he goes into the Stevens matter at all, I think the entire Stevens matter should come in, not come in piecemeal.

The Court: I think if you wanted to let it in, there should have been an objection made as to what the charges involved. He was permitted to testify without objection that they involved the matter of selling eyeglasses, and the best evidence would have been his written charges, of course.

Mr. Rosling: May I see the letter?

Mr. Sembower: Your Honor, our serious concern is that we could get off on this bypath of the Stevens matter and it *would us* about three days to try that matter, and we only wish to bring it in in this limited reference.

Mr. Kimball: Your Honor, in that regard, I can't follow the argument very well, because the letter is dated in 1952, two and a half years after the conversation with Dr. Stevens, and if they are not going to bring it all in, I think they ought to leave it all out. [866]

The Court: Of course, it is a question of when it is brought in, because I don't think there could be any question that if counsel uses this letter, the writing on which it is based could be brought out on cross-examination, ask them to produce the letter on cross-examination. I think they can get it in, anyway.

Mr. Sembower: We are perfectly agreeable if that is done and we are prepared to go forward with it, but we feel it is a digression. If the oppo-

(Testimony of Miles H. Robinson.)

sition wishes to bring it out on cross-examination, we are prepared to face it at that time and to proceed with it.

The Court: Well, this is the defendants' exhibit, it will be admitted. That is No. 436, was it not?

The Clerk: 436; yes, sir. [867]

\* \* \*

Your Honor, we have at this time various excerpts from the minutes of the Board of Trustees and Executive Committee of the State Medical Association. The minute books have been supplied by Mr. Rosling and they arrived yesterday, and we have the rule to read only from exhibits which have been admitted, so that I suppose the thing I should do is ask that these be admitted as exhibits in the case, and I suppose there is no objection from Mr. Rosling.

Mr. Rosling: Well, I only have a practical side of it, your Honor. The State Medical, of course, has constant use of these minutes, some of them are current, and I wouldn't like to have them introduced if it is possible to avoid it, and my suggestion is that they be retained here just as long as counsel wants them and just let him read from the minutes—there won't be any objection, I don't think, from anyone—and in that way he can get into [868] evidence what he wants, but the books will be free.

Mr. Sembower: That is entirely agreeable.

The Court: Only a small part of them would be used here, I presume.

(Testimony of Miles H. Robinson.)

Mr. Sembower: That is correct, and we have marked passages.

The Court: I would suggest you read them into the record or have photostatic copies made of the portions you wish to put in here.

Mr. Rosling: Of course, if they went into the record, I don't see any reason for a photostat.

The Court: If there is no objection to that method, I have no objection.

Mr. Sembower: That is agreeable with us. I merely wanted to perform the proper procedure there.

Referring to the minutes of the Executive Committee for March 17, 1951—

The Court: This is the Executive Committee of the State Medical Association?

Mr. Sembower: Of the State Medical Association—we find a minute in this proceeding entitled "Grievance Committee Report":

"Dr. Berge made a report of the Grievance Committee proceedings.

"There was brought to the attention of [869] the Executive Committee a letter of March 15, 1951, from Mrs. J. Lorene Russell and her husband, Emergy S. Russell, of Bremerton, Washington, addressed to President Partlow, protesting the findings of the Grievance Committee in their complaint against Dr. K. P. Jackson of Bremerton. (Letters on file in Central Office.)

"Doctor Berge reviewed the hearing. He indicated that in the opinion of the Grievance Committee Doctor Jackson had done nothing harmful

(Testimony of Miles H. Robinson.)

except that he did not word his diagnosis correctly; that the Grievance Committee could consider only the charges made by Mrs. Russell and could not consider background information (Medical Defense Committee matters, etc.) previously received. Mr. Rosling indicated that was correct and that Mrs. Russell had already had her day in court.

“Doctor Benson felt it would serve a very useful function and purpose if the Grievance Committee would take it upon itself to point out to doctors against whom a complaint has been made, when it is [870] justified, where they have been careless in writing reports re patients. Mr. Rosling indicated after the Grievance Committee makes its findings in a particular case it can show where the doctor’s deportment and writing of reports, diagnosis, etc., were in error. He also said he felt the Grievance Committee, in its findings and decisions, is final in itself; that reports from Doctor Berge should be informative rather than requiring action; that the Committee may decide to refer some cases elsewhere, but that he didn’t think every action of the Committee is subject to review or revision. Doctor Corbett stated the Executive Committee has jurisdiction in the final analysis over all committees; that in answering Mrs. Russell’s letter he thought the reply should state the Executive Committee had reviewed the case and approved the findings of the Grievance Committee. Doctor Benson stated if any disciplinary action is involved the Executive Committee (or the Board of Trustees) must approve, and Mr. Rosling agreed. [871]

(Testimony of Miles H. Robinson.)

“It was moved, seconded and carried: that the Executive Committee approve the action of the Grievance Committee re Mrs. J. Lorene Russell.

“Doctor Berge also reported on two other cases, Victor J. Marion, Bellingham, vs. Sidney J. Hawley, M.D., Seattle, and Joseph D. Kelleher, Seattle, vs. Dr. E. A. Reising, Seattle, which were considered March 10 and where the Grievance Committee found for the defendants.

“It was moved, seconded and carried: That the Executive Committee accept the report of the Chairman of the Grievance Committee re Marion vs. Hawley and Kelleher vs. Reising.

“Doctor Berge then asked for advice re the matter of Cowlitz County Medical Society vs. Dr. Fred C. Parke. He reviewed the case; said the Grievance Committee had set it for hearing in Longview, April 7, but that Mr. Rosling felt this was the wrong action; that the Society had not made a complaint or asked for a hearing; and he read the last paragraph of the letter of Dr. J. A. Nelson, President, Cowlitz County Medical Society, [872] dated November 24, 1950, stating as follows:

““Our medical society would like an opinion from the committee of your organization as to what we should do from here. Are we justified in suspending him from the hospital staffs, or from the medical society, or what other discipline activities would be in order? \* \* \*”

“After discussion it was moved, seconded and

(Testimony of Miles H. Robinson.)

carried: That the letter of November 24, 1950, addressed to the Executive Director, W.S.M.A. from Dr. J. A. Nelson, President, Cowitz County Medical Society, Longview re Dr. Fred C. Parke be referred to Legal Counsel for reply.

“Doctor Berge said he understood the Grievance Committee was in the position of an appellate court with direct jurisdiction; that it may review appeals from county medical societies, made either by the society, one of the doctors in the society or from a layman who may feel he has not had justice at the hands of the county society. Mr. Rosling indicated written complaints may come direct to the state Grievance [873] Committee, and that such complaints will probably be referred to the local grievance committee concerned; and the State Committee has the power to review findings of a local committee.

“Doctor Corbett said he didn’t think the Grievance Committee would fulfill its intended purpose unless it attempted to do preventive work as well. Doctor Berge asked whether it was within the province of the Grievance Committee to initiate as well as answer a complaint, and Mr. Rosling said he considered that the Committee did have the power according to Chapter VIII, Section 16, of the by-laws of W.S.M.A.

“In regard to the public relations and publicity aspects of the decisions of the Grievance Committee as brought up by Mr. Barnes, Doctor Berge stated

(Testimony of Miles H. Robinson.)

he felt 95 per cent of the cases coming up before the Grievance Committee would be without justification. In the 5 per cent where there is justification, should anything be done about the findings outside of informing the parties involved; should anything be [874] published in the papers about decisions rendered where the doctor concerned is disciplined? Doctor Corbett stated he thought these matters would have to be decided by the Grievance Committee in each case.”

And that ends the minute relating to the Grievance Committee.

Referring to the minutes of the Board of Trustees of May 6, 1951:

“Grievance Committee Report:

“Doctor Berge reported that the Grievance Committee had heard two cases on April 22, 1951, in Walla Walla; the case of Thomas R. Brooks vs. Miles H. Robinson, M.D., and Miles H. Robinson, M.D., vs. Walla Walla Valley Medical Society; and discussed the findings.

“Doctor Berge moved that ‘The Board of Trustees endorse and ratify the decisions of the Grievance Committee in the foregoing actions.’ Motion was seconded.

“There followed a period of discussion wherein Doctor Zeck queried whether the Washington State Medical Association could pass on a violation of the Code of Ethics of [875] the American Medical Association. Doctor Adams asked whether the Board could rule on what constituted unprofes-

(Testimony of Miles H. Robinson.)

sional conduct and suggested that the term 'unprofessional conduct' be deleted from the decisions. Doctor Benson indicated Doctor Robinson would lose staff privileges and this could be construed as restraint of trade or discrimination. Doctor Berge replied stating that the Grievance Committee only recommends what action should be taken by the Society. He continued the term 'unprofessional conduct' is applied to Doctor Robinson because he failed to appear at the hearing after due notification without reasonable excuse. This is a direct violation of Article 3 of the Rules and Regulations of the Washington State Grievance Committee.

"It was pointed out that Doctor Robinson was being deprived of certain rights as a result of his sentence and he could accordingly sue the Association or the Society. Legal Counsel stated that a Society has the privilege of either accepting or rejecting applicants for admission to that [876] Society. The regulations of the Grievance Committee are binding upon the members, and should the Grievance Committee make a recommendation involving a suspension or reprimand it must be presented to the Board of Trustees for its approval. In the matter of Robinson vs. the Society, approval of the Board is not required, Counsel continued, but in the matter of Brooks vs. Robinson a recommendation for suspension is made and it must be approved by the Board. Doctor Freund said that if Mr. Brooks took the matter to civil court using the State Grievance Committee's decision as evi-

(Testimony of Miles H. Robinson.)

dence then Doctor Robinson might lose his license to practice medicine. Counsel agreed it could be admissible evidence, but concluded that if a Grievance Committee is going to function and warrant the support of the public 'the thing has got to have some teeth in it.'

"The question was put to Legal Counsel whether the Association could be held liable for decisions based upon its Constitution and Bylaws; Counsel replied in the negative stating 'when a person becomes a member of [877] this Association he agrees to be bound by the Constitution and Bylaws of the Association.' He said when the amendment to the Bylaws was passed it provided that the Rules and Regulations of the Grievance Committee should be published, so Doctor Robinson had ten days in which to withdraw his membership from the Society. Doctor Gaiser wanted to know if the State Rules and Regulations had been published prior to the inception of this grievance. Counsel replied that the Rules and Regulations were published and this complaint was filed after the inception of the Grievance Committee.

"Doctor Spickard moved the deletion of the sentence in Paragraph 5, page 3, Brooks vs. Robinson, 'We also feel that there is reason to believe that he violated the common law.' Motion was seconded and carried.

"It was moved that the last sentence of Paragraph 5, page 3, Brooks vs. Robinson be amended to read: 'He has violated the principles of medical

(Testimony of Miles H. Robinson.)  
ethics of the American Medical Association which have been adopted [878] as the Code of Ethics of the Washington State Medical Association.' Motion was seconded and carried.

"The original motion that the decisions of the Grievance Committee be approved was carried.

"Doctor Gaiser stated that a uniform set of Rules and Regulations for Grievance Committees, for the use of County Societies, was under preparation. Procedure to be followed will also be outlined for the information and guidance of County Societies. The Board of Trustees should approve them. In the meantime Doctor Gaiser felt that County Societies not having Rules and Regulation should be inoperative until the proposed Regulations had been adopted by those Societies.

"Doctor Partlow commented on the matter of Bureau managers also serving as Executive Secretaries of the local County Medical Society. From certain aspects this is not a desirable situation in his opinion.

"Mr. Neill brought up the matter of a member of the Association staff being in any [879] way involved in the work of the Grievance Committee. He thought it best that a member of his staff be used, thus keeping the matter under consideration 'in the family.' If outside services were to be obtained there would be some chance of leakage. He commented on the fact that the Secretary of the Grievance Committee of the Walla Walla Valley

(Testimony of Miles H. Robinson.)

Medical Society is the Executive Secretary of that Society. Doctor Gaiser stated that this was understandable because they wished to preserve the secrecy of that Committee. Doctor Berge referred to page 4, Paragraph 6 of the Robinson vs. Walla Walla matter in which a recommendation is made that the matter of maintaining the Grievance Committee as a secret Committee be reviewed by that Society. Concerning Mr. Neill's remarks, Doctor Berge stated that during the hearings a court reporter should be present to take verbatim testimony. As Chairman of the Grievance Committee his work required a great deal of secretarial assistance, and he added Mrs. Lawrence of the W. S. M. A. staff had been a wonderful help. [880] It is necessary that she be fully informed of what is going on and have a locked file so complete secrecy may be obtained. 'I would much prefer to work with Mrs. Lawrence than to have outside assistance.'

"Doctor Bryant was of the opinion the doctor concerned should be informed of the decision first. Doctor Gaiser discussed the matter of requesting County Societies which had no Rules and Regulations for their Grievance Committee setup, to cease functioning. Legal Counsel took issue on this subject for, in his opinion, the autonomy of the Society was being questioned in that this request could be interpreted as a request to disband a duly constituted committee. Doctor Gaiser then made the following motion 'that all component societies be advised due to the experience of the State Griev-

(Testimony of Miles H. Robinson.)

ance Committee it has been found that some of the local Grievance Committees have not properly prepared Rules and Regulations and the State Grievance Committee has prepared a form and it is recommended that the procedure set up by [881] the State Grievance Committee be adopted on a local level.' Motion was seconded and carried.

"It was moved, seconded and carried that the report of the Grievance Committee be approved."

And that concludes the entry with respect to the grievance committee at this meeting.

Referring to minutes of the Executive Committee held Wednesday, January 16, 1952, at 6:30 p.m., at the Rainier Club, Seattle, we find a subheading:

"Rules and Regulations of Grievance Committee:

"In view of the pending decision of the A.M.A. Judicial Council it was decided to withhold publication of the rules and regulations of the State Grievance Committee."

And that concludes the entry with respect to the grievance committee at this meeting.

The Court: What is the date of that last minute? Did you give me that?

Mr. Sembower: January 16, 1952.

Referring now to minutes of the Executive Committee meeting held March 12, 1952, at 6 p.m. in the Rainier Club, Seattle we find a subheading entitled:

"Membership Status of Dr. Miles H. [882] Robinson:

(Testimony of Miles H. Robinson.)

“Discussion was had on Legal Counsel’s letter of February 14th to Doctor Robinson in reply to his query concerning his membership status in the Association. Mr. Rosling said he replied to Doctor Robinson’s query as a ‘legal question and it was signed by me as an individual.’

“In letter dated February 18th the President of the Walla Walla Valley County Medical Society said in part “We are not at this time taking any action \* \* \* until the Society has received certain information from the Judicial Council of the A.M.A. \* \* \* and until a decision has been reached as to whether or not that decision will be appealed to the Board of Trustees of the A.M.A.’

“Pending receipt of the Association’s requested information from the Judicial Council, the matter was set over. Doctor Benson pointed out the necessity of instructions to the State Grievance Committee by the Board of Trustees at its next meeting.”

And that concludes the entry.

Referring to minutes of Executive [883] Committee meeting held April 9, 1952, at 6:30 p.m., Rainier Club, Seattle, there appears under Old Business, Subparagraph (a):

“Judicial Council Decision re membership of Dr. Miles H. Robinson:

“A communication relative to the A.M.A. Judicial Council’s decision on Doctor Robinson’s appeal from the action of the Walla Walla Valley Medical Society was read. Lengthy discussion followed on

(Testimony of Miles H. Robinson.)

the case and on the course of action the State Grievance Committee and the Walla Walla Valley Medical Society should take. Doctor Benson moved, it was seconded and carried that: Legal Counsel be instructed to prepare a critical analysis of the communication concerning the Judicial Council's decision for the President's signature; to be approved by the Board of Trustees and that the Walla Walla Valley Medical Society be informed this matter has been taken under advisement and will be submitted to the Board of Trustees for its consideration."

And that concludes the entry. [884]

Referring to the minutes of the Executive Committee meeting of the Washington State Medical Association, held July 30, 1952, at 6:30 p.m., at the Rainier Club, Seattle, under Old Business, Subparagraph (c), there appears the following entry:

"The Secretary outlined Legal Counsel's letter concerning the Robinson vs. Stevens, et al., matter in which the Association was served. It is an action for damages, he said, resulting from an alleged conspiracy to destroy the plaintiff's medical practice by wrongfully causing his expulsion from the local society. The Executive Secretary stated that Walla Walla Valley Medical Society had readmitted Doctor Robinson to the Society; that the Society had written the A.M.A. to close the case. Counsel's letter and the Executive Secretary's comments were offered for information. It was then moved, seconded and carried that: They be received.

"(d) It was moved, seconded and carried that:

(Testimony of Miles H. Robinson.)

The opinion of the Judicial Council on the rehearing of the appeal of Doctor Miles H. Robinson, dated June 9, 1952, be [885] received. Lengthy discussion followed on the necessity of revising the Rules and Regulations of the State Grievance Committee. Doctor Benson moved, it was seconded and carried that: The decision of the Judicial Council be referred back to the State Grievance Committee and that it, with aid of Legal Counsel, be directed to revise its rules and regulations to conform to the concepts of the A.M.A., and that the following principles be incorporated into such a revision: (1) That local County Medical Society autonomy be strictly observed; (2) That the State Grievance Committee be eliminated as a court of original jurisdiction and (3) That the Board of Trustees be an appellant body to the State Grievance Committee. That the rules and regulations so revised be presented to the House of Delegates at its 1952 session for its consideration."

And that concludes the entry.

Referring to the minutes of the Executive Committee of the Board of Trustees of the Washington State Medical Association held October 15, 1952, at 6:30 p.m., [886] Rainier Club, Seattle, there appears under the "Grievance Committee" the following entry:

"The Executive Committee reviewed and discussed the recommendations of the Committee on Reports to the House of Delegates with regard to Grievance Committees.

(Testimony of Miles H. Robinson.)

“Doctor Benson moved, it was seconded, and carried: That the Chairman of the Grievance Committee, with the aid of Legal Counsel, be directed to revise rules and regulations of the State Grievance Committee for presentation to the Board of Trustees at its next meeting in order to thereby implement the recommendations of the Committee on Reports at the last meeting of the House of Delegates.”

And that concludes the entry.

Referring to the minutes of the Executive Committee of the Board of Trustees of the Washington State Medical Association held Novemembr 19, 1952, at 6:30 p.m. at the Olympic Hotel in Seattle, Washington, there appears the entry:

“Proposed Change in Bylaws of King County Medical Society:

“Mr. Rosling stated that it had been brought to his attention informally at the [887] meeting of the Board of Trustees of the Washington State Medical Association, October 26th, that one of the proposed changes which was approved at a previous meeting of this Board was a sentence Article III, Section 7, of the King County Bylaws reading as follows:

“‘However, the disciplinary action voted by the society shall remain in full force and effect during the pendency of such appeal or appeals.’

“However, when this proposed Bylaw was acted upon by the King County Medical Society, the above sentence was changed so that the disciplinary action

(Testimony of Miles H. Robinson.)

should not remain in full force and effect during the pendency of an appeal, which change is in violation of the State and A.M.A. Constitutions, and therefore, ineffective as a part of the Society's Bylaws.

“It was moved, seconded and carried; That the King County Medical Society be requested to submit a copy of the amendments adopted by their Society on October 6th, to the Washington State Medical Association.” [888]

And that concludes the entry.

I have a few citations from the minutes of the Board of Trustees of the Washington State Medical Association. The first entries were from the Executive Committee that I read a moment ago and the second were the Executive Committee of the Board of Trustees, so the chronology is not perfect between them.

The Court: The one of May the 6th, 1951, was the minutes of the Board of Trustees, wasn't it?

Mr. Rosling: That is correct.

The Court: The others were for the Executive Committee. All right, I have it straight.

Mr. Sembower: Yes.

I refer to the Executive Committee report to the Board of Trustees, dated January 7, 1952, which appears in the minutes of the Board of Trustees meeting held on January 27, 1952, at the Washington Athletic Club in Seattle, and in the Executive Committee report there appears Paragraph 19:

“Directed that the publication of the Rules and

(Testimony of Miles H. Robinson.)

regulations of the State Grievance Committee be withheld pending the decision of the Judicial Council of the A.M.A.”

Referring to minutes of the Board of Trustees, Washington State Medical Association, for May 11, 1952, at [889] the Washington Athletic Club in Seattle, there appears under the heading “Grievance Committee” the following entry:

“Dr. Berge spoke at length on the history and formation of Grievance Committees. He outlined in detail the Dr. Miles H. Robinson matter; Doctor Robinson’s appeal to the Judicial Council of the A.M.A., and the latter’s reversal of the decision of the State Association and County Society. Upon petition by the County Society a rehearing has been granted. The State Grievance Committee will be given an opportunity to present oral testimony at the rehearing scheduled for June 7, 1952, in Chicago. Lengthy discussion followed on the over-all Grievance Committee picture.

“Doctor Young moved, it was seconded and unanimously carried that: The Washington State Medical Association continue its Grievance Committee.

“It was then moved by Doctor Berge, seconded and unanimously carried that: A brief be prepared to be presented to the Judicial Council of the A.M.A., at the rehearing of the Robinson matter on June 7, [890] 1952, in Chicago.

“Dr. Benson will appear before the Judicial Council on behalf of the Association, and requested that Doctor Zech, A.M.A. Delegate, be present.

(Testimony of Miles H. Robinson.)

“Doctor Berge moved that: The Rules and Regulations of the State Grievance Committee be reviewed and made to conform with the concept of its appellate character.”

Referring now to the minutes of the Board of Trustees for October 26, 1952, in the Washington Athletic Club, Seattle, Washington, under the heading “Recommendations of the House of Delegates, Paragraph (a), Grievance Committee:”

“The Committee on Reports’ recommendations to the House of Delegates relative to the annual report of the Grievance Committee were referred to the Executive Committee at its October 15, 1952, meeting, when the following action was taken:

“‘It was moved, seconded and carried: That the Chairman of the Grievance Committee, with the aid of Legal Counsel, be directed to revise rules [891] and regulations of the State Grievance Committee for presentation to the Board of Trustees at its next meeting in order to thereby implement the recommendations of the Committee on Reports at the last meeting of the House of Delegates.’

“In accordance with the foregoing, the legal counsel presented his letter dated October 24th to the Board of Trustees in which he outlined three courses of procedure to implement the action of the House of Delegates:

“‘1. Repeal Section 3 of Chapter V granting the right of appeal to the Board of Trustees to a member of component society who has been disciplined by action of his society.

(Testimony of Miles H. Robinson.)

“ ‘2. Modify the rules and regulations of the Grievance Committee so as to permit the Grievance Committee to make final recommendations involving disciplinary action without first submitting its recommendations to the Board of Trustees for approval. This procedure will require [892] a redrafting of the rules, approval of the new rules by the Board of Trustees, followed by publication in Northwest Medicine.

“ ‘3. Remove from the jurisdiction of the Grievance Committee all matters relating to the ethical deportment of the members. This will involve a change in the Bylaws which can be done only by the House of Delegates.’

“ ‘Dr. Berge stated, ‘in addition to what Mr. Rosling has told you, I don’t know how familiar most of you are with rules and regulations of the Grievance Committee.’ Therefore, Doctor Berge quoted Section 7 under Rules and Regulations of the Grievance Committee of the W.S.M.A. as follows:

“ ‘7. The Committee will receive written complaints from any person whether or not he or she be a physician, a member of the Association, an employee of the Association, a patient of a physician or any other person, lay or professional, and will also review de novo (from the beginning) any controversy or matter [893] referred to it by the Grievance or Ethics Committee of any local component society.’

“ ‘That means this committee is in the position of an appellate court and any person in the state

(Testimony of Miles H. Robinson.)

can complain to us about any doctor and we will hear the case. It has been our practice up to now to leave the complaint in the hands of the Chairman to either turn back to local societies, and have the local society make its recommendations and if the aggrieved wishes to make an appeal to us we will hear it. People do not always feel they can obtain a fair hearing from the county committee. I think this Board should accept the second suggestion as it appears in Mr. Rosling's letter of the 24th of October. Do you want us to continue as we are doing now, i.e., referring cases back to local societies, or do you want us to hear appeals from local societies? Should people complain first to their local society and have us as an appellate court, only hearing appeals from local counties?' Doctor Berge referred to Chapter V, Section 3, [894] of the Constitution and Bylaws—Appeals in Disciplinary Proceedings. He also read Section 16c, Chapter VIII—Grievance Committee Duties. 'Do you want us to act as an ethics committee as well as a Grievance Committee? If so, then the Constitution and Bylaws will have to be revised. My feeling is that there must be an Ethics Committee. If you want a separate committee, then revise the Constitution and Bylaws.' He recommended that the rules and regulations of the Grievance Committee be modified so as to permit the Grievance Committee to make final recommendations involving disciplinary action without first submitting its recommendations to the

(Testimony of Miles H. Robinson.)

Board of Trustees for approval. 'This requires re-drafting of the rules. They will only have to be redrafted in Section 12, however, dropping one line, i.e., subject to the approval of the Board of Trustees. If you do that, you are putting a great deal of power in the hands of the Grievance Committee. It will be a very powerful committee. These men could make a great deal of trouble if they [895] are not careful, just and sincere in their findings. If you do that, I feel these men are taking a tremendous responsibility. The danger we run of being sued is great. We should protect the members of the Grievance Committee against such a suit by proper insurance.'

"Doctor Berge moved, it was seconded and carried: That Paragraph No. 2 of Mr. Rosling's letter, dated October 24, 1952, be accepted, and that the members of the Grievance Committee be adequately protected by insurance in case of a suit against them.

"Doctor Jared said he believed the power of the Grievance Committee is not too great. 'It has a direct appeal from the public, from the doctor, and from the county society. All it does is make recommendations to the county societies. It cannot deprive a doctor from membership in any county society. The Board of Trustees must review its findings. The doctor who is accused and whoever the local society suspends can appeal to the Board of Trustees of the State Association. I think that is the answer to it. I think [896] the Central Office of

(Testimony of Miles H. Robinson.)

the State Association should protect members of the Grievance Committee against suit by providing necessary insurance.'

"Mr. Rosling stated that it was his opinion if the members of the Grievance Committee act honestly, they would not be responsible in damages to the party whose case is being considered before them. 'Bear in mind, however, that an attempt to hold them might be made. The Robinson case is a splendid illustration. It is always possible for someone to say that a conspiracy has been formed in which the members of the State Grievance Committee are acting jointly with local groups to bring about his expulsion. I think the suggestion that they be protected by liability insurance is a very sound one.'

"Doctor Adams questioned whether the members of the county Grievance Committees should not also be covered inasmuch as they are in the same position as the State Committee.

"Doctor Kintner requested Doctor Berge [897] to determine where counties could obtain such liability coverage, and Doctor Berge said he would do so.

"After further discussion, Doctor Rew moved, it was seconded and carried: That revised recommendations regarding the formation of County Society Grievance Committees be forwarded to each County Society with the recommendation that the Constitution and Bylaws of the Society be changed to conform to that of the State Association and the

(Testimony of Miles H. Robinson.)

A.M.A. as it pertains directly to the formation of such a Committee.”

And that concludes the entry.

The Court: Court will recess for ten minutes.

(Whereupon, a short recess was taken.)

Mr. Sembower: Your Honor, in the reading of the minutes, there was reference to insurance. We literally stumbled on that in the continuity. We wanted to state that we are making no contention with reference to insurance and we are perfectly agreeable, if the Court wishes, to strike the references to insurance. The insurance provided goes after it and can have no bearing upon the incidents themselves.

The Court: There is a strict rule against [898] mentioning insurance in jury cases.

Mr. Sembower: Yes.

The Court: I don't know whether I have ever known it to arise in a case before the Court. I understood from your reading here that this proposed insurance was to cover the members of the State Grievance Committee as individuals and the members of the State Grievance Committee are not defendants in this case.

Mr. Sembower: Yes. We intended to present no implication.

Mr. Rosling: I don't ask it be stricken, I just ask counsel to accept my statement that insurance was not procured.

The Court: I see.

(Testimony of Miles H. Robinson.)

Mr. Sembower: Our sole purpose was to show the confusion here, not to have any reference to insurance, as such, at all.

The Court: Well, I will instruct myself to disregard all matters of insurance.

Mr. Sembower: All right.

Q. Dr. Robinson, did you keep your office open in Walla Walla during all this time, during the spring and during the late winter and spring of 1953? A. Yes.

Q. Until what date did you keep your office open here? [899]

A. Approximately June 1, 1953.

Q. And what did you do then?

A. We prepared to leave Walla Walla and move to Baltimore.

Q. You stated "we"; to whom do you refer?

A. Myself and my immediate family.

Q. And you moved then to Baltimore, Maryland?

A. Yes.

Q. Why did you close your office in Walla Walla, Dr. Robinson?

A. Well, my medical business was very poor and I could hardly make expenses. We felt completely ostracized in the community. There was a great deal of hostility on the part of the other doctors in the town, most of them, and I felt there was just no future for me as a doctor in Walla Walla, after having been expelled from the medical society. [900]

(Testimony of Miles H. Robinson.)

Mr. Sembower: Reading from Plaintiff's Exhibit 255, which is a photostatic copy of a letter from Miles H. Robinson, M.D., to Mr. John E. Davis, Executive Secretary, Walla Walla Valley Medical Society, dated January 9, 1953:

"Dear Mr. Davis:

"This will confirm our conversation this morning in which I pointed out to you that the 1953 'Emergency Call Sheet, an Activity of the Walla Walla Valley Medical Society,' fails to list my name in the proper alphabetical place. Since this Call Sheet covers the last half of the doctors in the Society, and since my name did not appear in the first Call Sheet, the result is that I have not been listed at all.

"It is scarcely necessary for me to remind you that these call sheets are publicly displayed in both hospitals [901] and probably elsewhere. These lists, therefore, constitute a display to all the nurses of this community, and through them to the public, designating the responsible doctors of this community who are to be called in an emergency."

And Exhibit 285 is the emergency call sheet of the period in question.

Q. I will ask you, Dr. Robinson, did you have the conversation with Mr. Davis referred to in your letter?

A. Yes.

Q. Was it in person or by telephone?

A. It was in person.

Q. At his office?

A. Yes.

(Testimony of Miles H. Robinson.)

Q. That was the office of the Walla Walla Valley Medical Bureau and also the society?

A. Yes, in the Drumheller Building.

Q. In substance, what did you say to him and what did he say to you on that occasion?

A. I told him that on every floor of every hospital these pink mimeographed sheets were posted showing what doctors were on emergency call on what days, and I told him that my name was not listed on those sheets and, just as I said in the letter, that that was quite [902] hurtful to me, especially after having been expelled from the society and having been kept out of the hospitals for a year or so, and that everyone would just naturally assume that I was still just out of things and not acceptable to the official society and not eligible for inclusion in an important list of this kind.

Well, he said that—he said, “Well”—Well, in the first place, I was going to mention his attitude, but I realize I have to say what he said.

He said, “Well, no doubt, that is because these lists are made up from the doctors who are on the bureau.” I told him that I had heard that excuse so often that I was extremely tired of it and reminded him again that I was a bona fide member of the society; that this list states that “This emergency care list is a function of the Walla Walla Society,” and I said, “I cannot understand why you do not use the list of the society members”; that I was not a member of the bureau, perfectly

(Testimony of Miles H. Robinson.)  
true, but that that had absolutely nothing to do with the situation.

And he had no response that I can recall to that comment. He said then further, he said, "Well, I will tell the girls about it and we will get you on the next list." "Well," I said, "that doesn't help me now. These lists only come out every six months." And I can't [903] recall exactly what he said, whether he would try to amend the thing or whether he said that there were so many copies had gone out. I understood every drug store had them tacked up in their office or somewhere. But in any case, nothing was ever—I was never put on the list and nothing was ever done about it.

Q. Did you ever rejoin the bureau here, Dr. Robinson?      A. No, I did not.

Q. Did you make any additional efforts to gain admission to the St. Mary's Hospital other than those which have been testified to up to this time?

A. I believe I wrote St. Mary's a last letter some time in there, the usual thing, asking if I couldn't get back in on the staff.

Mr. Sembower: I have Plaintiff's Exhibit 256 for identification and ask that it be admitted.

The Court: I didn't get the number.

Mr. Sembower: 256.

Q. Dr. Robinson——

The Court: I didn't get your decision on that.

Mr. Sembower: I'm sorry.

The Court: 256 has been offered and that is No.

(Testimony of Miles H. Robinson.)

2 with reservations being reserved; that is, the right to make objection has been reserved.

Mr. Smith: We will object to that, your Honor, in [904] that it refers to a number of conversations which we don't feel are admissible. We will admit the letter is authentic.

The Court: Well, it will be admitted as evidence of the writing of the letter and the demand made for information, and so on. It will not be taken as evidence of hearsay statements.

Mr. Sembower: Thank you. We merely wished it for the purpose of the letter having been written.

(Whereupon, the said letter was admitted as Plaintiff's Exhibit No. 256.)

Q. Dr. Robinson, when you moved to Baltimore, did you apply for admission to the medical society in Baltimore? A. Yes.

Q. What is the organizational setup, Dr. Robinson, as to the society there, if you recall?

A. It is in every respect the same as in Washington State; that is to say, in each county there is a local county medical society which is affiliated with the State Medical Society of Maryland, which in turn is affiliated with the AMA.

Q. And when did you make application, if you recall?

A. I believe it was—in fact, I remember it was December 30, 1953.

Q. Why did you apply for membership to the Baltimore Society, [905] Dr. Robinson?

(Testimony of Miles H. Robinson.)

A. The same reasons that I applied here in Walla Walla—you have to be a member of the society in order to have hospital privileges, and in order to have professional standing in the community, it is highly advisable to be a member of the society, and I would say, thirdly, that I think all doctors ought to be a member of their society to pursue the best interests of the profession and the public.

Q. How did you make application?

A. I wrote a letter to the secretary of the Baltimore County Medical Society.

Q. Did you get a response to that?

A. No, I did not.

Q. What did you do then?

A. I might say that in that letter I told them—

Mr. Rosling: If your Honor please, I think the letter would be the best evidence.

The Court: Yes, the letter would be the best evidence, if you have it.

Mr. Sembower: I have Plaintiff's Exhibit 262 for identification and ask that it be admitted.

The Court: It will be admitted. [906]

\* \* \*

Q. (By Mr. Sembower): Dr. Robinson, I show you Plaintiff's Exhibit 261 and ask you if this is the letter to which you have just testified?

A. Yes.

Mr. Sembower: The exhibit reads:

“Dear Doctor Wheeler:

“I wish to apply for membership in the [909]

(Testimony of Miles H. Robinson.)  
 Baltimore County Medical Association, and have today written the Walla Walla Valley Medical Society, in Walla Walla, Washington, of which I am a member, and asked them to forward to you my credentials for the purpose of transferring my membership to the county medical society here.

“If there is anything further I should do, please advise.

“I would be much obliged if you would let me know where and when your Association meets.

“Sincerely yours,

“MILES H. ROBINSON, M.D.”

Q. Now, Dr. Robinson, did you receive a reply to that letter?

A. The next thing that happened was I got this carbon copy from Walla Walla, a carbon copy of their letter to the Baltimore County Medical Society, passing on my credentials. [910]

\* \* \*

Q. (By Mr. Sembower): Dr. Robinson, I show you Plaintiff's Exhibit 263 and ask you if you have seen it before? A. Yes.

Q. And what is that exhibit?

A. Well, as I started to say, I waited a week and I hadn't heard from them so I telephoned Mr. Wheeler and he wrote [911] me that letter stating—or Dr. Wheller, I should say—stating that he had received word from the Walla Walla Society and had passed their letter on to the Board of Censors of the Baltimore County Medical Society.

(Testimony of Miles H. Robinson.)

Q. Dr. Robinson, when were you actually admitted to the Baltimore County Society, if you recall?

A. It was between four and five months, as nearly as I can recall, after I applied to them.

Q. I show you Plaintiff's Exhibit No. 508 and ask you if you have seen that before? A. Yes.

Q. And what is that letter, Dr. Robinson?

A. Notifying me that I have been admitted and the letter is dated April 23, 1954.

Mr. Sembower: For the record, this is a letter from Clarence E. McWilliams to "Dear Doctor Robinson"——

Mr. Kimball: The number of the exhibit, please?

Mr. Sembower: 508.

The Court: May I see the exhibit?

(Exhibit handed to Court.)

Mr. Tuttle: The number of the exhibit, please?

Mr. Sembower: 508.

Q. Now, Dr. Robinson, between the time of your application and the acceptance of your application and the conferring of membership, tell us what next happened. [912]

The Court: Pardon me, did I understand the witness to testify that this April 23rd, that was four or five months after your application?

A. Yes, that was. I was figuring from December the 30th, 1953, to some time in April, which would be——

Mr. Rosling: Three months and 23 days.

(Testimony of Miles H. Robinson.)

A. January, February, March—well, that is correct, it is not quite four months.

The Court: All right.

Q. (By Mr. Sembower): What did happen next during the interval of time between your application and the acceptance of it?

A. I waited a couple of weeks after this letter of January the 9th from the secretary saying my application had been passed on to the Board of Censors, who pass on new applicants, and then I became rather concerned because I knew that there is no waiting period for a transfer member. A new applicant anywhere in the country has to wait six months or so, but when you are already a member of a county medical society in some part of the United States, at least in Baltimore, there is no waiting period in getting your Baltimore County membership, because in both cases you are a member of the AMA.

So I went across the street one day and just—

Q. Across the street? [913]

A. From my medical office and introduced myself.

Q. Just for the record, Dr. Robinson, where was your medical office located there?

A. 28 Allegheny Avenue, Baltimore 4. And that community is also known as Towson. It is a suburb of Baltimore. And I introduced myself to Dr. Howell, who was an outstanding pedetrician who had his office there, and asked him about it. Well, then, the next thing that I remember—he had noth-

(Testimony of Miles H. Robinson.)  
ing to say about it, didn't know anything about it—the next thing that I remember is he called me up and said, "There is going"—

Mr. Kimball: If the Court please, I object to any statements.

The Court: Yes, that is hearsay.

Q. (By Mr. Sembower): Will you state what did happen after you introduced yourself to Dr. Howell?

A. Oh, well, I asked him about my application. Then I received a telephone call from him on about February the 17th.

Q. Well, now, did Dr. Howell take you then to a meeting of the society?

A. Yes, I then went with Dr. Howell shortly after that 'phone call at his invitation to a meeting of the Baltimore County Medical Society, held in the Penn Hotel a few blocks away at a luncheon meeting, which was their [914] regular February meeting.

Q. Dr. Robinson, prior to this time, were you known around Baltimore?

A. I don't know exactly what you mean.

Q. Well, were you known by the doctors who lived in the community there in Baltimore?

A. Well, I don't believe I was really—it was not where I was born or raised.

Q. Well, then, what occurred at the meeting, if you recall?

A. Yes. I met quite a few of the doctors there and we sat down to a luncheon and—

(Testimony of Miles H. Robinson.)

Q. And then what occurred?

A. The first thing, one of the first things that occurred, and the thing that I remember above all else, was that a motion was made that the application blanks of all new members coming in the Baltimore County Medical Society should henceforth state whether the applicant had or had not been convicted of a violation of medical ethics. The motion was promptly seconded and passed.

Q. If you know, was that provision the only change between the applications for membership as they existed before that and the applications pursuant to the motion?      A. That is correct.

Q. Dr. Robinson, you testified that you opened an office in Baltimore. How long did you keep your office open? [915]

The Court: What is the evidentiary value of this testimony, Mr. Sembower?

Mr. Sembower: Your Honor, we propose to introduce testimony as we go along——

The Court: Are you going to connect it up with these defendants?

Mr. Sembower: That is correct.

The Court: All right.

Q. (By Mr. Sembower): How long did you keep your office open in Baltimore?

A. Until approximately August or September of 1955.

Q. Did you seek hospital privileges in Baltimore?      A. Yes.

Q. Were you successful in obtaining them?

(Testimony of Miles H. Robinson.)

A. No.

Q. Did you testify when you closed your office, for the record?

A. Approximately August or September of 1955.

Q. And why did you close your office?

A. No business, or practically none. [915-A]

\* \* \*

The Court: And I assume now that counsel understood what I had in mind, what my proposal is, to proceed with the issue of liability on both sides before proceeding with the issue of liability.

Is that clear?

Mr. Sembower: Yes.

Mr. Kimball: Yes. [922]

\* \* \*

### MILES H. ROBINSON

plaintiff herein, having been previously duly sworn, resumed the stand and testified further as follows:

#### Cross-Examination

By Mr. Tuttle:

Q. Dr. Robinson, I am quoting from Paragraph XXIV of your complaint in this action, in which you have alleged:

“That after the plaintiff’s criticisms of the secret grievance committee had gained the support of almost half of the membership of the society, as shown by an official test vote on November 20, 1950, the fear and enmity of the defendants were aroused

(Testimony of Miles H. Robinson.)

and they did make use of the aforesaid secret grievance committee and by other means the defendants to a degree combined to conspiracy for the purpose of injuring the plaintiff and the plaintiff's reputation as a doctor and destroying his medical practice by wilfully causing his expulsion from said society."

Do I understand from that allegation, [923] Doctor, that that is the date at which you allege this conspiracy was entered into on the part of the defendants, November the 20th, 1950?

Mr. McNichols: Your Honor, I don't think that is a proper question as to the witness' version of when this thing commenced exactly.

Mr. Tuttle: I am going to ask him when——

The Court: Well, I think the question is proper as to when he thinks it commenced. I don't think that too much should be made of the statement in the pleadings because usually they are the lawyer's statement rather than the litigant's. But I think he may answer, if he can, the question of when he considers the conspiracy began.

Do you understand the question, Doctor?

A. Yes, your Honor.

The Court: Yes, all right.

A. I do. My idea of when it began was shortly after I wrote my letter of August the 11th, 1950, in which I criticized the medical bureau.

Q. (By Mr. Tuttle): So it would be some time shortly after August the 11th, rather than November the 20th, 1950? That was your idea as to when this conspiracy was entered into, would that be correct?

(Testimony of Miles H. Robinson.)

A. Well, I felt that the first overt act, I believe is the expression, was when the grievance committee wrote that [924] letter to Mrs. Edwards.

Q. You would consider, then, the letter as being the first overt act?

A. I would like to modify that. I just recall now that the refusal to pay my bill on Mrs. Phillips, which took place on the 23rd of August, that was the first thing, but it didn't impress me as strongly as the writing of the letter to Edwards on the 30th of—when was it—September.

Q. Well, would you say, then, that the conspiracy had been commenced as early as August the 23rd, 1950, when the bureau letter was written?

A. Well, I really don't know when these people got together, all I know is what happened to me, and the first thing that happened to me was the letter to Mrs. Phillips telling them not to pay that bill.

Q. Well, I think, Doctor, in your deposition given last fall in the case which you have pending against the American Medical Association in Chicago that you made reference in that deposition, at least once and perhaps more times, to the effect that the American Medical Association had master-minded this whole conspiracy.

Would you tell us when you think the American Medical Association got into the conspiracy?

A. Well, I don't recall saying in so many words that the [925] AMA master-minded the conspiracy. Your question is when do I think the AMA got into it.

(Testimony of Miles H. Robinson.)

Q. Yes.

A. My best opinion on that question would be that I feel and believe that the AMA was probably contacted at about the time when the Brooks complaint was referred to the state grievance committee.

Q. It was contacted when did you say, Doctor?

A. About the time when the Brooks complaint was referred to the State Grievance Committee, which I—well, you are quite right—

Mr. Sembower: Your Honor, I object to this line of questioning. On the direct examination, there was no testimony introduced that the AMA master-minded it in any respect, as being the architect of this conspiracy. It doesn't seem to me that this is proper cross-examination.

The Court: Counsel is referring to a deposition, I believe. I think, Mr. Sembower, the range of testimony in conspiracy is very broad and the range of cross-examination necessarily must be comparably broad. I will overrule the objection.

A. I was going to say that the date I had in mind, Mr. Tuttle, was October the 16th and on reflection I realize that is not when the case was actually referred to the state grievance committee, but that is the time when Mr. [926] Fullerton inquired of the state grievance committee how he could refer the case.

Q. (By Mr. Tuttle): You mean this case?

A. The Brooks complaint.

Q. That is, the Brooks complaint, when they

(Testimony of Miles H. Robinson.)

made an inquiry in October of the state about referring it, that is when you think that the AMA was contacted or the state?

A. I have no knowledge of just when the AMA was in touch with my opponents in the society, but I feel it is reasonable to assume that it was very likely contacted about that time.

Q. Now, referring to Page 36 of the deposition which we took of you in this case, Doctor, you made the statement:

“I think it was very likely he,” meaning Mr. Fullerton, “contacted the American Medical Association in between the time I resigned and they accepted my resignation and asked the AMA what to do about this fellow. I think that is extremely likely.”

A. Uh-huh.

Q. Did you have any basis for making that statement.

A. Oh, the same basis I had for making the statement I just [927] made, and that basis is this: I am thinking of the really extraordinary behavior of the society in the Brooks complaint. Here we have a man, Mr. Brooks, calling up an officer of the society on the telephone at 8:30 a.m. in the morning on October the 9th, and then without any conversation face to face with this man Brooks by these people who have never heard of him before and have never met him, know nothing about him, without any face-to-face conversation, in a matter of two days the President of the Walla Walla Society

(Testimony of Miles H. Robinson.)

schedules a full dress hearing on October the 11th, complete with the society lawyer, a court reporter, five or six or seven doctors, ready to take down a complaint of a man who one would assume might very well be a crank. They go to all this activity.

And as I look back on it in retrospect, I figure that the vigor of their approach fits in, and knowing the contact between the different organizations, state and county and AMA, that there must have been some consultation with the top authorities of the AMA.

Q. So that now reading from Page 48 of your deposition in this case, Doctor, you made the statement:

“In the second place, I have every reason to believe the AMA was contacted very early in the game and coached and advised the [928] local people here how to handle me.”

Is it your belief that the AMA was coaching and advising as early as the filing of the Brooks complaint against you and the procedures which were taken at that point by the local society?

A. Well, knowing the vital interest of the AMA in the activities of the bureau in the State of Washington, knowing the tremendous effect of my criticism, which I never expected, of the bureau upon the members of the society here, and knowing a previous case involving, for example, Dr. Shadded in Oklahoma, where he states in his book that the AMA master-minded and coached the society to dissolve itself and then reform without him a member, know-

(Testimony of Miles H. Robinson.)

ing what I do know now, I think it is quite likely that the AMA played a part in this quite early.

Q. But it is only just a matter of suspicion on your part, you don't have any evidence of that, do you?

A. No, it is merely a part of the pattern that took place later for a year or two, and that is only a suspicion.

Q. Now, you have stated in your Chicago deposition, that is, in the Chicago case, you made a statement to the effect that the AMA was smothering your opposition and the only way to do it was to run you out of town.

What reason would the American Medical Association have had for smothering your opposition and running [929] you out of town as early as October, 1950?

A. Oh, I don't know that the AMA went so far as to decide to run me out of town in October, 1950. Any such idea as that would probably be arrived at gradually, depending on whether I appeared to bow down.

I just do know that the bureau situation in the State of Washington is unique in the entire United States, as shown by the publications of the AMA itself.

Q. So that you don't think that they had anything in mind at that time such as smothering your opposition or running you out of town, do you, Doctor?

A. Well, your question covers every degree from

(Testimony of Miles H. Robinson.)

faint criticism to actually running me out of town. I really couldn't answer that.

Q. Have you completed your answer, Doctor?

A. I don't think it is possible to answer that question.

Q. Now, one of the factors which I believe you assigned as being fundamental in this conspiracy is the fact that you had attacked organized medicine, is that correct, Doctor?

A. I don't believe that reflects the substance of my remarks on that subject up 'til now, if that is what you refer to.

Q. No, I am not referring to your remarks today, I am referring to what you have given us in your depositions, [930] everything that you have said to us in connection with this case, both pretrial and what you have said on your direct testimony and what you have said today on cross-examination. I would infer from the things that you have said that one of the factors that you attribute to this conspiracy against you is that you had attacked organized medicine; is that a fair statement?

A. Oh, I don't think it is at all. I have never attacked organized medicine; organized medicine has attacked me, if there is any attacking going on.

Q. Well, have you had any difficulty with organized medicine previous to August, 1950?

A. I would say nothing of any particular significance.

Q. What about the difficulties you had when you

(Testimony of Miles H. Robinson.)  
were interning at Pennsylvania Hospital in 1938, tell us about those?

A. Well, I didn't even know organized medicine existed at that time as far as being a group that would attack anybody.

Q. Well, did you have difficulties at that time, Doctor, with that hospital?

Mr. Sembower: Your Honor, I object to that as extremely remote. We have introduced no evidence concerning the internship of this man at this period except as to qualification. [931]

The Court: Wasn't that related in his background?

Mr. Sembower: He did relate in his background that he was an intern, but I don't think that brings it within the scope of the gravamen of this action. I have no objection, really, to going into it, except it widens the horizon.

The Court: Well, I think that is too remote. I will sustain the objection.

Mr. Sembower: We would have to bring in evidence on that.

The Court: I assume that the inference is that it is to his credit that he served in the usual way in internship. If it can be shown that he didn't, I suppose that would invite cross-examination.

Mr. Sembower: I think that would be pertinent. I don't think that this question is.

The Court: If he had some difficulty with organized medicine at that time, I think that would be too remote.

(Testimony of Miles H. Robinson.)

Mr. Tuttle: Well, if your Honor please, my position on this matter is that the doctor has given testimony in his deposition that he had had difficulties as early as 1938 while he was interning in Pennsylvania Hospital which he attributed to be related to this conspiracy, was one of the factors that the American Medical Association undoubtedly had in mind when they entered into this conspiracy, and I [932] feel that it is pertinent.

The Court: Well, if you have taken a deposition, you may use the deposition for cross-examination.

Mr. Sembower: Yes, if counsel can cite questions in the deposition that carry that import, I have no objection, but I don't believe he said anything of that nature.

Q. (By Mr. Tuttle): Well, let me ask you this question first and that may relate it more properly:

In 1945, did the American Medical Association's directory of doctors list you as retired, Doctor?

A. I don't know what they did in 1945.

Q. Well, have they ever listed you as retired on some other date? I may be in error on the date.

A. Yes, they once listed me as retired.

Q. And what date was that?

A. Well, it was around 1942.

Q. And did you attribute that to malice on the part of the American Medical Association toward you at that time?

A. At the time, well, and at any time, I thought first it was probably incompetence, and it has oc-

(Testimony of Miles H. Robinson.)

curred to me since that there might be some element of malice in it.

Q. Well, explain to us what that element of malice was, how it arose.

A. Well, it would relate to a little controversy we had in [933] the Pennsylvania Hospital in 1940, I believe it was.

Q. All right, will you tell us what that was, please?

A. Well, the story is substantially this: I had what is known as a two-year rotating internship in the Pennsylvania Hospital and was to extend from 1938 until the fall of 1940, and after—well, for the first 13 months I don't think I missed more than one day of work in the entire time, and at the end of that time I had the misfortune to become sick with an acute middle ear and a mastoid condition. And during that time, all of us in the hospital had very bad working conditions, I would say. That was shown by the fact that one of my friends by the name of Chapman from the Midwest, he left the hospital after five weeks without even any warning to the hospital, he was so disgusted with the conditions. Another friend of mine by the name of Gilman came down with tuberculosis during that period.

It was during the winter, I had tremendous responsibilities, I had charge of a whole ward with, I think, something like 45 people. Sulfa was just coming in and we were doing routine urinalysis on every patient who got sulfa and routine blood

(Testimony of Miles H. Robinson.)

counts, and it was a highly exhausting piece of work where we worked 16, 18 hours a day quite often. I was completely exhausted and worn out and I got sick. I was hospitalized and I [934] didn't get any better. The head of medicine of my department came around and he said, "Well, what you need is to take a rest two hours every day." Well, I pointed out to him that that was a rather laughable recommendation because all my work would fall on my friends in the hospital. So he said, "Well, we will give you a vacation of two or three weeks," and they gave me a vacation and I went home.

Well, it was the middle of our Philadelphia winter and I didn't get any better, and then they said, "Well, we will make some arrangement with you like we made with our tuberculosis intern. We will cut down your surgical service if you can get it arranged with the Department of Licenses of Pennsylvania to give you your license with a slightly shortened length of surgical service."

Well, we then spent several weeks or a month or so trying to work that out and I wasn't getting any better and the head of the licensing bureau, he would tell me, "Well, I will do whatever the hospital says," and the hospital manager said, "Well, I will do whatever the license bureau says," and it was very much like what happened here in Walla Walla, I just couldn't find out who was responsible.

So I eventually decided that I couldn't [935] work out any solution and I decided I would come

(Testimony of Miles H. Robinson.)

West, and I did so and while I was looking over how I would continue my training out here, two letters crossed in the mail, a letter from the hospital saying, "You are fired," and a letter from me saying, "I resign."

Well, I didn't like that letter of firing me and so I sat down and I sat down and wrote a little report on the conditions in Pennsylvania Hospital, because I have always been inclined to stand up for what I thought was right and I quoted my tuberculosis friend and I quoted Chapman and I described the conditions and the lack of exercise and the poor food and the business of making money off interns. We should have had that work done by paid help on a lot of this urinalysis and what not which did not use our skill.

Well, the board of managers didn't like my report very well and I think they held it against me a little bit.

So, when I came out West and I worked in Pasco very well for five months, but I still hadn't got over this mastoid. So I decided, well, the thing to do is to go back on land and the farm for a few months or a little longer, and I came up to Walla Walla to do that. And when I left Pasco, shortly thereafter the AMA directory came out and it had me listed as retired. Well, I was [936] 29 years old, I think, and I thought to myself, how in the world did they know I even left Pasco and how did they know that I was retired when I was just trying to get well by taking a rest for two or three months?

(Testimony of Miles H. Robinson.)

So I knew, of course, I had offended some of the powers in organized medicine back in Philadelphia, and I just wondered a little bit at the time whether there was any relation, but it never preyed on my mind and I never thought of it until that deposition a few months ago when inquiry was made into every possible problem that I might have ever had with organized medicine or the AMA, and I regard the whole thing as inconsequential and, while I know the AMA keeps a dossier, or whatever you call it, on every doctor on everything he has ever done, I know perfectly well I would have had no trouble with the AMA if all this trouble hadn't started in Walla Walla.

Q. But you did tell us, didn't you, Doctor, at that time that you thought that that was a malicious act on the part of the directory?

A. Well, I think it could have been a little malicious. People do things sometimes.

Q. And the letters which you sent to the hospital criticizing them, did you send them to the AMA?

A. Didn't even know the AMA—well, I hardly knew the AMA [937] existed. No.

Q. Did you think that the letters criticizing the Pennsylvania Hospital personnel were sent to the AMA by the hospital?

A. Oh, there wasn't any particular letter, I just wrote up this report. In fact, now that I think of it, I believe I was invited to write it up by one of the trustees, who was also a member of the Quaker

(Testimony of Miles H. Robinson.)

Church to which I belonged. He said, "Why don't you put down what you notice is not right here?" And his name was Evans, I happen to remember him, and he is the only person that got the report, though I suppose he perhaps passed it on to the manager of the hospital.

Q. You made the statement to us on Page 26 of your deposition, Doctor:

"In one sense, the minute I stood up for my rights at Pennsylvania Hospital, why, the conspiracy started, and if you want to, just take it down to that very point."

Now, is that what you were talking about when you made this statement to us then, the report which you had sent in to the head of the Pennsylvania Hospital?

A. If I made that statement, I had in mind, they were cutting it awfully fine on "what you mean by a conspiracy," and what I understood him to be asking me was [938] how far would I go, how far back in time would I go, to discover any resentment against me by organized medicine, and knowing that the head of medicine at Pennsylvania Hospital was a power in organized medicine, why, I just went back to that point.

But how that conceivably could have anything to do with this trouble in Walla Walla, I certainly couldn't see then when I answered that question, I can't see now.

Q. Well, what about the Oregon boards situation? You expressed to us, as I recall, in your depo-

(Testimony of Miles H. Robinson.)

sition the idea that this resentment which had been created on the part of some of the heads of organized medicine due to your attack and criticism on the Pennsylvania Hospital had manifested itself in the directory omission and it also manifested itself, at least to some extent, in your tests before the Oregon licensing board.

Will you tell us about that situation?

A. Well, first let me say that I never attacked the Pennsylvania Hospital. They had written me a letter terminating my arrangement and I was merely defending my position.

Q. All right, you were defending your position. You made a statement that the "Eastern fellows," as you put it, had had a hand in the Oregon boards situation. I would like to have you describe what that situation was, [939] Doctor, and how the Eastern fellows had a hand in it.

Mr. Sembower: Again I object to this as extremely remote, your Honor. Now, the pattern of this, of course, is that when Dr. Robinson's deposition was taken, apparently some kind of an investigation, check, had been run on him and every possibility of controversy in his past was turned up and he was confronted with questions. We are going to be placed in the position where we are going to have to introduce evidence in rebuttal on all of this matter, board examinations and internship. We have tried to keep the issues focused here. I feel it is fairly remote.

The Court: Well, as I understand it, in his dep-

(Testimony of Miles H. Robinson.)

osition he indicated that this conspiracy, which eventually matured and ripened into this lawsuit, started back with this incident at a hospital. If so, it is a proper subject of cross-examination, and if he attributed the same thing to organized medicine, it is a proper subject. I regret having the scope widened, but I can't arbitrarily limit it.

I will overrule the objection. You may proceed.

Mr. Tuttle: You may answer, Doctor.

Mr. Sembower: May we have the question repeated? I think we may have lost it in the shuffle.

Mr. Tuttle: I think I lost it, too.

(The question was read.)

A. As I said before, I don't attribute my problems in Walla [940] Walla to anything that happened before. However, I am perfectly happy to tell you about the Oregon boards situation.

It is common knowledge that a doctor when he wants to go into certain states in the Union after he has a license in another state is often met with opposition, and that is particularly true in the states which are booming—California, Oregon, Washington, and Florida. In support of that statement, Dr. Roundtree, who is a friend of mine and who was head of the Selective Service all during the last war, told me that when he went down to take the Florida boards, only a handful of 50 or so men that went down passed these boards, and there was a recent article in *Medical Economics* which described the very bad situation whereby these examinations are not honest examinations.

(Testimony of Miles H. Robinson.)

But however that may be, when I took the boards in Oregon, I failed those boards twice, and I was rather surprised because I compared answers with other men and found I did better than they did. The one particular man had a job all waiting for him and he went right in. And it is, I think, common knowledge——

The Court: Pardon me, I don't think that that is material here, whatever happened there, unless you attribute it to having some connection with this. If you say no, I [941] think that is the answer, perhaps counsel would like to interrogate further, but if you don't attribute that experience to anything that happened here, why, I don't think it is material at all.

A. Your Honor, I don't relate that experience to Walla Walla in any way.

The Court: I see, all right. Well, I think that is the answer.

A. I would like to say that that is common for men to try to come in a state and fail to get in, to get a license to practice medicine.

Q. (By Mr. Tuttle): Well, then, I will ask you, Doctor——

The Court: I think one of the leading lawyers in Tacoma failed a bar examination twice, so that that doesn't mean much.

All right, go ahead.

Q. (By Mr. Tuttle): I will ask you, Doctor, if this was the questioning and testimony in con-

(Testimony of Miles H. Robinson.)

nection with this, quoting from Page 22 of the deposition in this cause:

“Q. And, of course, this Oregon board stuff occurred after retirement reference in the AMA directory so I want to make sure you are not going to claim there is any relationship between your prior difficulties, which you think may have [942] been related to your directory trouble, the relationship between prior difficulties with organized medicine and the local boards in Oregon. There wasn't any relationship at all there, was there?

“A. Yes, there was.

“Q. I thought you told me there wasn't?

“A. I will tell you exactly how. If I told you that, that is not what I meant.

“Q. I'm sorry if I misquoted you.

“A. What I meant was there was not necessarily any relationship because what happened to me in Oregon could happen to other people, and had over and over again, but I think there was definitely a relationship there because when a man comes up for examination, the top medical men take an interest in these candidates. For example, Dr. Howard Luce is head of medicine in the University of Oregon and while I was waiting to take the examination, I worked as kind of a visiting fireman in the clinic and I had a lot of conversations with the top doctors and they all said, “You are going to get 100 [943] on every subject.” I don't know what made them say that. I am trying to get my dates

(Testimony of Miles H. Robinson.)

right. This was after I had had my research work. I had been teaching physiology and doing experimental work in pharmacology. I think they almost flunked me in the subject I was teaching in top medical schools in the East. The fellow said, "Gosh, I think you are going to get 100 on every subject; not because I was bright, I didn't mean it in that way; I meant my reputation would help me and we had some influential friends in Portland who were wealthy people and very well connected.

"Q. You mean your family?

"A. My family, yes. And the idea was this man kind of hinted where we lived, where we bought the house and the nice people we knew, and he kind of hinted that they would put in a word for us, and one way and another if we got enough words put in for us, there wouldn't be any question about getting good marks. What happened is this, those fellows that were [944] telling me, as I look back on it, I think were kind of jealous because it just happened I overheard them once when they didn't know I was listening, I was down the hall—

"Q. (Interposing): What hall?

"A. In the medical out-patient clinic at the University of Oregon Medical School, and I happened to hear this very fellow who was saying how I was going to get 100 in all subjects—

Mr. Sembower: Your Honor, I object to this. This was exactly the type of answer the witness was giving a moment ago, which is entirely a matter of speculation. At this time I think the witness is not

(Testimony of Miles H. Robinson.)

represented by counsel at the first part of his examination, and I don't think that is at all probative, it has no relation to this suit. He has testified that this incident was not linked by him at all to the Walla Walla matter.

Now, there may be a good deal of gossip and scuttlebutt that may always pass around whether it is a bar association examination or medical association about this sort of thing, but it doesn't sound probative.

The Court: I don't think it is material, counsel, unless what you are reading here is inconsistent with the [945] answer that he has made, that he didn't attribute any connection now. What you are endeavoring to read is capable of another interpretation, that he then attributed some connection.

Mr. Tuttle: Your Honor, I started out reading here where I asked a question:

“Q. There wasn't any relationship at all to this conspiracy, was there?”

“A. Yes, there was.

“Q. I thought you told me there wasn't?”

“A. I will tell you exactly how it was related.”

Now, he has told us today it is not related and I am now reading the answer on how he related it.

The Court: Well, I got lost on the answer.

Mr. Sembower: So did I.

The Court: Well, go ahead.

The Witness: Perhaps I could answer that.

The Court: Perhaps the witness can explain

(Testimony of Miles H. Robinson.)

what he meant there by saying he thought there was a connection.

A. What I had in mind——

Mr. Tuttle: Just a moment, Doctor, I thought we would finish this to see if this was your testimony at that time.

The Court: All right. [946]

Q. (By Mr. Tuttle, reading continued):

“And I happened to hear this very fellow who was saying I was going to get 100 in all subjects, I heard him talking to the head of medicine, saying, ‘What are we going to do with this fellow Robinson?’ in a very deprecatory tone. That man was treating me beautifully whenever I saw him. I came very highly recommended from the men back east, they were treating me very nice, but behind my back they resented me and I never dreamed it because I was trying to be decent and do my work. So when I heard that, I wasn’t quite too surprised when I found out I flunked one or two subjects, and each time I flunked it, they wrote me a letter and said, ‘Doctor, what are your plans?’ If I said I was going to go to Bend, Oregon, I’ll bet I would have passed, but, no, I thought I was going to live in Portland with nice cultural advantages for the children. The way to pass these examinations is to say you are going to live in some little place where they need a [947] doctor.

“Q. In other words, they don’t want competition?

“A. They don’t want the competition in desir-

(Testimony of Miles H. Robinson.)

able places where other doctors want to raise their kids. These heads of medicine are very well connected back East and one of those fellows was a close buddy of the man who was my head of medicine at Pennsylvania Hospital. In fact, he told me he had been in correspondence about me. At one time he told me that, kind of hinting I had some trouble and the way it looks is this: The big men over the country are kind of buddies of each other and the first thing a big doctor in a place like Portland does when a new fellow comes to town is he finds out where that new fellow interned, what kind of a guy he was. Well, that is legitimate, but you can just imagine what kind of report went from the head of medicine of Pennsylvania Hospital out to these men in Portland. It was undoubtedly a report that I was a very obstreperous fellow [948] that didn't kowtow to the big shots and they had better put me in my place for the good of the boys, so I think that was a factor in my failing these examinations. That is not the only factor. As I told you first, there is always the local problem.

“Q. It is perfectly clear, isn't it, that there wasn't any relationship between the Oregon situation and the conspiracy, absolutely no relationship, is there?”

“A. Oh, no; that is where I disagree with you. As I said, when you have relationships with organized medicine and you have a little difficulty with them, then you may have more difficulty with them and each time the fellow stands up for his rights.

(Testimony of Miles H. Robinson.)

In a situation like that, he builds up resentment in organized medicine against him and I think it is a perfectly honest statement to say that resentment was building up against me, as it does probably against a lot of young fellows. I don't think it would ever have amounted to anything in particular if it hadn't had more [949] fuel added to the fire when I came to Walla Walla and said, 'Well, I am not going to make any statement here and I am not going to be pushed around any more.' "

A. May I interrupt? That is a misquotation of what I said, if I may interrupt, your Honor.

The Court: All right.

Q. (By Mr. Tuttle): That is all right, go ahead.

A. It doesn't make sense, in the first place, something about I don't make any statement here. What I said was, what I had in mind was that in Walla Walla I was just going to make a stand, and I left Pennsylvania Hospital on account of my health and I couldn't get into Portland, but in Walla Walla I intended to stick and that is what I was trying to convey and I think the reporter has taken "stand" to "statement," something of that kind.

Q. Well, then, is it your testimony today that people in the East had sent reports to the license board of Oregon regarding your previous criticisms of the Pennsylvania Hospital?

A. Well, I know that to be a fact, and I have a letter in my possession, which hasn't been intro-

(Testimony of Miles H. Robinson.)

duced, but from the head of the hospital back there referring to a visit with me out in Portland. He came out to Portland and I [950] know that—well, Dr. Lewis himself told me that, he showed me a letter from the head of medicine in Pennsylvania where I had interned. He didn't let me see what was in it, but he held it out. He says, "I have got a letter here from Duncan and he talks about your work at Pennsylvania Hospital." And he did this before I took the examinations and at the time he pretty clearly implied that there had been a little trouble back there and he also reminded me that Dr. Duncan was a close personal friend of his, Dr. Lewis. So I was able to acquire from that contact, from that incident, that there was a contact between the East and the West in that particular case.

But I think that what you have in mind there, Mr. Tuttle, where you are misinterpreting, where I am not understood here, is that when I came out against the secret committee here and made criticism of the bureau, why, and all this trouble stirred up, I think that the AMA was undoubtedly advised and they looked up their dossier on me and said, "Oh, yes, that is that fellow that created a little stir in Pennsylvania Hospital some years back." And I can conceive that when they looked that up, that they might have taken a little more vigorous participation in things out here in Walla Walla just on the basis of the fact that I was an independent [951] man and had stood up for my rights at that early day.

(Testimony of Miles H. Robinson.)

But I mean that is the only link that might just condition the attitude of the AMA a little bit one way or another as a result of those old experiences. So your use of the word "conspiracy" and my use of it at that time was stretched awfully thin and I was just trying to describe the background which might condition the attitude of the AMA to take a more vigorous attitude towards me.

Q. But those are the facts which you thought were on file with the AMA, the facts that you have been relating to me now and which you think spurred them on the minute your name came up, is that correct?

A. Oh, I didn't say they were on file, but the medical profession, and especially the AMA, is not a very big outfit and the prominent doctors in each city all over this country are very well acquainted with each other, and I was in the oldest hospital in the United States, the Pennsylvania Hospital, and its top doctors are very well known and then I had that contact out there in Portland in which the matter was brought up again, so I don't know what is on the file of the AMA, I never said that.

Q. You didn't know whether anything was on file or not, you would say maybe nothing was on file with them at the [952] time they supposedly called from Walla Walla to the AMA?

A. Oh, well, whether it is in their head or on file doesn't make any difference. The AMA, if they want to look up a man, they just look up where he interned, that is all, and make an inquiry.

(Testimony of Miles H. Robinson.)

Q. Well, then, what statement did you have in mind when you made this one, Doctor: Reading from page 48 of your deposition:

“Q. In other words, the AMA didn't have you in mind at all, they had anybody in mind and you happened to get it?

“A. No, I wouldn't say that. The AMA keeps a dossier on every doctor in this country with an IBM system, and I am absolutely confident that the AMA knows every fact about me from the beginning of my relationship in medicine. They have got it all in their master file on me, and the minute the Walla Walla Society or Bureau contacted the AMA and said, ‘We have got a tough situation out here, we have got an independent doctor who isn't going along with us,’ the AMA instantly said, ‘Who is he?’ and they push the right [953] buttons on their calculators and out popped my file, and right away the AMA says, ‘By George, that is a fellow that was so ornery back in Philadelphia.’ So they put one of their men on the job and he says, ‘You had better give him the works, he is a tough customer,’ and that is just the way the AMA works.”

Now, did you have that in mind, that they did have these things on file regarding your difficulties as an intern?

A. Well, I think I really dramatized the situation there. I have been through the AMA building in Chicago and they do have an IBM system and it

(Testimony of Miles H. Robinson.)

is kind of a family outfit in a lot of ways, a bit gossipy, but I think I really over-dramatized the situation. I don't think it is quite like the FBI, if that is what you mean.

Q. So that the AMA, then, wouldn't have had any basis, would they, when they were contacted by the local group out here, to have immediately gone into action and started looking into your record?

A. No, I don't think that is true at all, I think they would have some basis, and as far as immediately going into action, the AMA is not known for being very immediate in going into action, but I think that they gradually [954] leaned their weight on me. That expresses it.

Q. So it was just a gradual process, probably they weren't contacted, as you indicated here before, and were given any information between the time when you wrote your letter of resignation and the time it was accepted by the bureau?

A. Well, your question is a contradiction in itself. You want me to admit that it is a gradual——

Mr. Sembower: Your Honor, the question could be a little clearer. He says the question is a contradiction.

The Court: Yes, it wasn't entirely clear to me. I think you——

Mr. Tuttle: All right, we will restate the question, doctor:

Q. Then on the basis of what you have testified

(Testimony of Miles H. Robinson.)

here about the AMA going into action so slowly, is it still your testimony that it is your belief that the AMA was contacted between the time of your resignation, your letter of August the 16th, 1950, and the acceptance of that letter by the bureau?

A. Oh, I think that would be preposterous, that is a matter of two weeks, and, oh, I think that is ridiculous.

Q. Well, then, what was the basis of the statement when you made it in your deposition? Was it preposterous at that time? [955]

A. What I have just said this morning is that somewhere, I don't know where, but the way this Brooks complaint was handled, not sooner than that, I would say, but I don't know when they did it, but you asked me for a guess and I am just guessing. Somewhere around from then on somewhere, I don't know when they contacted them.

Q. You stated on Page 36:

"I think it is very likely he contacted the AMA in between the time I resigned and they accepted my resignation and asked the AMA what to do about this fellow. I think that is extremely likely."

Now, it is your testimony today that that is a preposterous statement?

A. Well, it is all a guessing game, Mr. Tuttle, really, and at that time I was sitting in the AMA headquarters and I guess it seemed a little more likely and I am 2,000 miles away and it doesn't seem quite so likely, but I was just being asked

(Testimony of Miles H. Robinson.)  
to guess at a thing that I couldn't possibly know.

Q. Well, now, you alluded to competition as being another factor in this conspiracy. In what way has competition entered into it, Doctor?

A. Well, competition is just basic in the relations of all [956] men to each other in all fields.

Q. Do you think there is a conspiracy going on among all competitors at all times, or how does competition enter into this particular picture?

Mr. Sembower: Oh, your Honor, I think that is an awfully general question. I do not recall any testimony about competition.

The Court: Yes, I will sustain the objection to that unless you specifically call attention to some statement that he has made in a deposition.

Q. (By Mr. Tuttle): Well, referring to Page 27 of your deposition, you made this statement:

“Well, it is the first I think of at this moment. Actually, I mean my row with the Pennsylvania Hospital was in many ways the first evidence, you see, because that is where you run up against money. Those doctors on top are trying to hold down the young fellows and they only want to see succeed the bootlickers, fellows who will stand infinite abuse, go on for years without expecting money or anything else.”

Now I am asking you if you felt that was a competitive factor which entered into this conspiracy?

A. You started your question with [957] something——

Mr. Sembower: I object to that question, does

(Testimony of Miles H. Robinson.)

that relate? I don't know whether that relates to the Pennsylvania situation or this one or what.

The Court: The testimony, as I get it, relates to the Pennsylvania Hospital situation, doesn't it?

Mr. Tuttle: And that those doctors on top were trying to hold down the young fellow.

Q. I mean, do you think that in any way related to competition, top doctors, established doctors, trying to hold down the young fellows?

A. Oh, I think that is a chronic condition and not to be concerned about particularly. That is another basic fact of life and you were apparently drawing out my philosophy pretty thoroughly here, but I don't quite get your question.

Q. Well, have you stated previously that competition is a factor which has entered into this conspiracy, one of the motivating factors?

A. Well, I think it is pretty obvious that if I am pushed out of Walla Walla, that it is quite an advantage to some doctor who stays and gets my patients, so competition is certainly a natural factor in that sort of thing.

Q. And do you think it had some part in this thing? We recognize that there is competition every day among [958] doctors, but do you think competition was one of the factors in this alleged conspiracy?

A. Well, if it is common every day among doctors, it is going to be a factor in anything they do.

Q. Well, do you think it was one of the basic factors in this conspiracy, competition?

(Testimony of Miles H. Robinson.)

A. Oh, no, no.

Q. For example, you have testified that Dr. Stevens was a competitor of yours, and I believe——

A. Yes.

Q. And I believe you said that was one of the reasons why——

A. Well, I think that added a little fuel to the fire, yes.

Q. That is all you would be willing to say, that it just added a little fuel to the fire; you don't really feel that any of these men were hounding you because they were competitors of yours, do you, Doctor?

A. Well, I don't know how much fuel you have to have to have it qualify under the word "hounding." It is just one of the factors.

Q. You may not know the answer to that, but are you willing to state that none of these doctors who you claim were your competitors were after you because of competitive reasons?

A. Oh, no, certainly wouldn't state that. In other words, I think that was a very considerable factor in attacking [959] me.

Q. You think competition, then, was a considerable factor in the doctors attacking you?

A. A basic factor, yes, but one which gentlemen ordinarily control.

Q. Well, now, what doctors do you consider were attacking you because of competitive reasons?

A. Oh, the defendants.

(Testimony of Miles H. Robinson.)

Q. Just all the named defendants, or were there others?

A. Well, we tried to list all the doctors that we felt did me a wrong.

Q. For competitive reasons? A. Why, no.

Q. Well—

A. Because they did an unjust thing.

Q. But I thought I had asked you the question what doctors had done wrong to you because of competitive reasons and I thought you had named all of the named defendants in this complaint. Am I wrong?

A. Well, I certainly don't have in mind any doctor at the moment who has done anything wrong to me who is not named in this lawsuit.

Q. Well, then, it is your testimony, I assume, from what you said a few minutes ago, unless I misunderstood you, that the doctors who were named on this complaint were [960] wronging you for competitive reasons?

A. Oh, not at all. That is ridiculous.

Q. You didn't make that statement?

A. No, competition is the basic factor in any doctor's life, but I am considering—I mean the matters being considered is the wrongful things they did to me.

Q. And, then, you are willing to state that they didn't do anything wrong to you because they were competitors of yours, did they?

A. Well, that wasn't the main reason they did anything wrong.

(Testimony of Miles H. Robinson.)

Q. Was it a reason at all, Doctor, that is what I am trying to find out?

A. I am really lost in your questions, Mr. Tuttle, I'm sorry. If you could put it some other way, maybe it would help.

Q. Was it a reason why they attacked you, these particular doctors, that they were competitors of yours?

A. It seems almost like a problem in semantics, really, I mean the meaning. I think that when men compete with each other, that competition is a condition which has something to do with one's attitude.

Q. Well, then, as far as the factor of competition is concerned, you are willing to say that that had no bearing on this conspiracy, that is just one of the—— [961]

Mr. Sembower: Your Honor, I feel that question is argumentative.

The Court: Yes, I will sustain the objection. I think he has answered that it was a factor and explained it to the extent he thought it was. I will sustain the objection.

Q. (By Mr. Tuttle): What about the factor of jealousy, did that play any part in it?

A. Well, I would put it this way, that neither competition nor jealousy are precipitating factors in this controversy.

Q. They are precipitating factors, you say?

A. Are not.

(Testimony of Miles H. Robinson.)

Q. On Page 38 of your Walla Walla deposition, Doctor, you stated this:

“One of the reasons that the local men attacked me so savagely, I think, was jealousy, which is common enough in any profession, and that jealousy showed some signs earlier than August the 17th and one of them was that kind of natural trouble you have,” and so on.

You have stated there that that was one of the reasons that the local men attacked you so savagely, so would you say that that was just one of the day-to-day [962] factors just in the competitive world, or aren't you attributing jealousy as one of the basic precipitating factors in this conspiracy?

A. Oh, I would answer yes, that jealousy is a day-to-day factor that everyone runs into and is certainly not a precipitating factor in going after me.

Q. Then, that wasn't one of the reasons why they attacked you so savagely, was it?

A. We are talking about precipitating factors.

Q. Well, I am asking you, then, if you think that was one of the reasons why they attacked you so savagely?

A. Oh, I think you could say that that is one of the reasons. It is probably always one of the reasons why such an attack would be made.

Q. Well, had any of these doctors exhibited jealousy toward you in any way prior to that time? Can you think of one instance where anyone exhibited any jealousy toward you?

(Testimony of Miles H. Robinson.)

A. Oh, I think that is something that you expect and when you are a new man coming into town and just a general feeling that you run into it once in awhile, really didn't concern me particularly. I never really gave it a thought until this interrogation, which was delving into every conceivable circumstance and background and I really just went into it very deeply, is all. [963]

Q. Well, then, you are willing to say that there weren't any doctors who had exhibited any jealousy in any way prior to that time, is that correct?

A. I don't think of anything in particular right now.

Q. Now, you have testified that you think it was your resignation from the Bureau on August the 17th, that is, your letter of August the 17th, 1950, which set off this whole thing? A. Yes.

Q. Do you think that it was your resignation that set it off, or was it the views that you had expressed in your letter of August the 11th, 1950?

A. Both.

Q. You think it was both of those factors, then, that set this thing off against you?

A. Oh, yes.

Q. Do you think that those were the precipitating factors of the conspiracy?

A. Oh, I would say so.

Q. Do you think there was anything else involved at all, or just that alone? You have eliminated competition as a factor, you have eliminated— A. Oh, no, no.

(Testimony of Miles H. Robinson.)

Q. —jealousy as a factor?

A. As a precipitating factor, not as a factor in general. [964]

Q. We are getting back into semantics again. You used the term.

A. Well, it is your choice—

Mr. Sembower: Your Honor, I think counsel is arguing there and confusing us a little by leading us back into the woods.

The Court: Well, proceed.

Q. (By Mr. Tuttle): Maybe I am confused. I want to either get rid of competition and jealousy factors in this conspiracy, whether you call them precipitating or otherwise. Are they related to the conspiracy, Doctor, in any way? I mean, is there anything unusual about the factors of competition and jealousy which you think contributed to this conspiracy, or shall we set those aside and say that this was the only factor involved?

A. Well, all I can say, without repeating myself, is that the precipitating factors were the criticism I made of the bureau and my resignation from it.

Q. And by that do you mean that they are the only basic factors?

A. Well, I just said precipitating factors, which is entirely different from basic factors.

Q. Well, then, tell us what the basic factors are in this conspiracy. You take the term and you tell me what the basic factors are. [965]

A. Well, I think the precipitating factors are—

(Testimony of Miles H. Robinson.)

there are two meanings of the word "basic." I think that is the difficulty that I am having.

Q. Well, in order to avoid confusion to my questions, I just want you to tell me what factors you assign as being present in this conspiracy, and you can add any adjectives to the word "factor" that you want. Tell me how it fits into the picture. I will just make my question that broad.

A. Well, I will just simply say that I consider that the chief cause of the conspiracy was my criticizing the bureau and my resignation from it. Anything else could exist all the time without stirring up any conspiracy.

Q. That is what I asked you five minutes ago, wasn't it? Isn't that the only factor in the conspiracy?

The Court: I don't think that is a proper question.

Mr. McNichols: I won't object to it, then.

Q. (By Mr. Tuttle): Now, have you testified previously that you thought it was odd and that it was mysterious that your resignation wasn't accepted at once upon your writing the letter of August the 17th?

A. Well, all I can tell you is what I know, and that is two weeks went by with no acceptance of the resignation, which I thought was odd, knowing how prompt Mr. Fullerton is in his business. [966]

Q. Well, did you think there was anything very strange about that or very mysterious about it in any way, that it wasn't accepted?

(Testimony of Miles H. Robinson.)

A. Well, just looking back, which is the only way I can describe how I feel about it, they waited two weeks and then they held a meeting and accepted my resignation at the meeting, as if you had to have a meeting to get out of the thing. I just assumed that I would get a letter back from him or maybe a phone call and say, "Well, sorry you are leaving, but that is that."

Q. Well, he is only the secretary of the organization, isn't he, Doctor? Anything odd about the membership accepting it, rather than the secretary?

A. Well, of course, during that time he was trying to persuade me not to get out of the organization and that seemed a little odd. I had written a careful letter explaining how I felt about the bureau. I then, five days later, sent in my resignation. And I really thought he would just accept it and I didn't expect I would have to argue with him in order to get out of the thing.

Q. You stated here on Page 35 of your deposition:

"Instead of that, they have to hold a meeting of the bureau and formally accept, as though I couldn't get out of the darn thing without having a meeting about it, so I saw [967] right away something was cooking, something to put the heat on me, to use a common expression."

What did you think was cooking?

A. Well, I'll tell you, in that interval the Bureau wrote me, in effect, a letter refusing to pay a bill that I had sent in for \$17.00 on a patient that

(Testimony of Miles H. Robinson.)

I had cured, and that is the first time I had ever had such a letter written to me, and I thought, well, that is a pretty time to decide not to pay my little bill just when I am getting out of the bureau, so I thought something was, as you say, going on.

Q. But here you were talking about the fact that your resignation just hadn't been accepted yet and you were attributing something big cooking, to that effect, not the \$17.00 letter?

A. Well, I probably failed to mention at the time when you asked that question that this letter had been written telling my patient not to pay the bill. That is the letter to Mrs. Phillips, who had been my patient for a long time and all her other bills had been paid by the bureau, bills that I had rendered to her.

Q. So that between the two facts, one, that they were delaying accepting your resignation, and, two, that they had written this letter to Mrs. Phillips and sent a copy [968] of it to you, you were expecting something big to happen, you were looking for something to put the heat on you, so to speak; is that correct?

A. Well, I may have exaggerated slightly. I knew it looked awful big from here, looking back to all that has happened since.

Q. Well, who in particular resented your views in connection with your resignation?

The Court: I'm sorry, I didn't get that?

Q. (By Mr. Tuttle): Who in particular, Doctor, resented your view?

(Testimony of Miles H. Robinson.)

Mr. McNichols: I was going to ask the witness if he knows.

The Court: How would he know? If somebody indicated resentment, he might know it, is that what your question implies?

Mr. Tuttle: Well, he has testified previously, your Honor, that his views were resented in the society, and I want to know who resented them.

The Court: Well, the thought I had in mind, he couldn't possibly know that. He might know if they expressed resentment, he would know about it, but how would he know——

Mr. Tuttle: Oh, I'm sorry, yes.

Q. Who evidenced resentment and in what way?

A. Dr. Balcom M. Moore was one. [969]

Q. And in what way, Doctor?

A. Well, he wrote me a five-page letter criticizing my views and expressing the thought that he didn't care if I left the bureau since that left more money for the rest of them. Then he also wrote me a letter on January the 8, 1951, and asked me why I didn't get out of the society, as well as the bureau, which was a rather harsh thing to say, because if you get out of the society, you instantly lose all your hospital privileges and you might as well leave town.

Q. Well, I didn't want to get into that phase of it yet, I am talking about resentment of the views expressed in your August the 11th letter.

A. Well, I am talking about that, also.

Q. You are saying that this January letter also

(Testimony of Miles H. Robinson.)

related to that? A. Why, I would say so.

Q. All right. Now, in your letter which you wrote August the 11th, didn't you invite the members of the society to criticize your views in any way?

A. Yes, but I didn't invite them to encourage me to leave town.

Q. I am not talking about that, I am talking about the evidences now of resentment at or about the time you wrote that letter, say up until the 1st of October, 1950? [970]

A. Well, I couldn't place the date quite that close, I don't believe.

Q. Well, the Moore letter was later than August, on October 1st, wasn't it?

A. I just don't know when it was. It was around about that time.

The Court: What was the date of Dr. Moore's letter, Dr. Robinson?

A. Well, I do remember the second letter, your Honor; it was January 8th.

The Court: Oh.

A. 1951. But the first letter was some time in the fall and I don't recall when.

Mr. Tuttle: September 21st.

The Court: September? Yes, all right, go ahead.

Q. (By Mr. Tuttle): Dr. Moore's letter, I believe, was September the 1st, Doctor, and he wrote you as President of the Bureau, did he not?

A. I assume so, but he didn't state in his letter what his office was and I don't recall for sure now.

(Testimony of Miles H. Robinson.)

I only know that he was probably the most active one in the bureau.

Q. But his letter of September the 21st was a rather lengthy discussion of your views and what he felt were his views in connection with it; it wasn't a bombastic letter in any sense of the word, was it? [971]

A. I thought it was——

The Court: Is that letter in evidence?

Mr. Kimball: It is. I am getting it now, your Honor.

The Court: Oh.

A. I thought it was a rather intemperate letter, containing the remark that there would be more money left for the rest of us if you got out.

Q. I would like to read you some of the parts of this letter, please, Doctor, and ask you how you think they evidenced resentment on the part——

The Clerk: This letter isn't in evidence.

Mr. McNichols: I think possibly if you read part of it, you should read it all, Mr. Tuttle.

The Court: Mr. Granger says the letter isn't in evidence. What number is it?

The Clerk: 13.

The Court: 13. No, it hasn't been admitted. Do you wish to offer it?

Mr. Tuttle: We will offer it.

Mr. Sembower: We have no objection.

The Court: Do you have any objection?

Mr. Sembower: We have no objection. We don't think it is material, but we have no objection.

(Testimony of Miles H. Robinson.)

The Court: Well, Plaintiff's Exhibit 13 [972] will be admitted, then. [973]

\* \* \*

Q. Now, Doctor, reading from your letter of August the 11th and calling your attention to your last paragraph, you stated, did you not:

“For these reasons, I intend to resign from [985] the programs of the Walla Walla County Welfare Medical Program, the Medical Bureau, and the Veterans Program. As I mentioned earlier, I would be very glad to have your reaction to this letter to the end that I might get the facts as much as possible in line with the true state of affairs.”

Now, do you think there was anything in Dr. Moore's letter other than what you had invited?

A. Yes.

Q. And will you please tell me in what respect you think that letter indicates resentment to your ideas? A. May I see the letter?

Q. I am handing you Plaintiff's Exhibit 13.

A. Thank you. I had previously mentioned the last paragraph on the last page, this subject which I will read here. He says:

“I don't care whether any one doctor does not care to participate in our programs, especially if that doctor is expensive to the rest of us.”

And I interpret that statement to mean that he felt I was expensive to the rest of the doctors on the program and if I were off the program, there would be more money left for the rest of them. [986]

(Testimony of Miles H. Robinson.)

Q. Well, does that express resentment, that there is going to be more money left for the others?

A. Well, if I were not resentful of a man, I would not remind him that he was taking money away from me and my friends unjustifiably, which is the meaning of his remark here.

Q. Well, if he were trying to harm you, Doctor, as you think because of this resentment which you find in this letter, do you think he would have gone to the trouble to sit down and read your letter and digest your ideas and sit down and give the hours of thought which must have gone into his reply to you?

A. Well, I really don't know entirely what was in Dr. Moore's mind.

Q. So that perhaps resentment was not in his mind, isn't that correct, Dr. Robinson?

A. Well, I think the letter shows that he was resentful.

Q. Don't you think that the letter shows that he was trying to be helpful to you, to give you his ideas of where he thought you were wrong, where he accepted your invitation to express fully and at length his disagreement with your ideas?

A. Yes, he accepted my invitation.

Q. And you still think there is something more in that letter than just his expressing his views, which happened [987] to disagree with yours?

A. Yes.

Q. Do you think that resentment is based just upon that fact of disagreement?

(Testimony of Miles H. Robinson.)

A. Disagreement with what?

Q. Do you think that his resentment, of your attributing resentment to Dr. Moore, is that based just upon the fact that he held views which were counter to yours and expressed them?

A. I don't think I quite understand.

Q. Well, I mean do you mean that the resentment which you say he expressed there, is it based on anything more than the fact that he was disagreeing with you?      A. Why, yes.

Q. Well, in what way? You mean just because he said that if you were out, there would be more money left for the rest, is that it?

A. Yes, that is one thing.

Q. Is there another thing?

A. Well, in his analysis that it cost more a patient to come to me. I just happen to know that is not true. I have examined the analysis sheets that they put out and that just isn't true.

Q. Well, I thought you had resigned at that time?

A. Yes, but I still retained the analysis sheets that had [988] been sent to me previous to that time.

Q. So that those are the two things which you believe expressed resentment on the part of Dr. Moore?

A. Well, those are two of the things.

Q. I didn't get your last answer, Doctor.

A. Those are two of a number of things.

(Testimony of Miles H. Robinson.)

Q. Well, will you give us the rest of the number of things?

A. Well, you will recall he refers several times in the letter to how much worse off things would be under state medicine and he, of course, felt that this bureau program fought state medicine.

Q. Well, it was just a disagreement, wasn't it, of his opinion with you?

A. Well, I am, of course, looking back on it from now and——

Q. That's right, but there isn't anything there, is there, to indicate any resentment?

A. Well, I also had talked with Dr. Moore numerous times and heard him express his viewpoints in meetings and I knew very well that he was devoted to the bureau and disagreed very much with my position, which was that there was no difference between the bureau and state medicine which justified the way the bureau was operated.

Q. But to get resentment, as you see it now, you have to come down and look back on the situation, don't you, Doctor. [989]

A. Oh, no.

Q. You have no reason to think that he resented anything at that time; it was after your expulsion that you began to suspect that Dr. Moore had resented something, isn't that true?

A. No.

Q. Well, I thought you just said, "Looking back on it now, I feel that he resented it"?

A. Looking back on it adds to my understanding, but it was perfectly clear from this letter that

(Testimony of Miles H. Robinson.)  
from the two points I mentioned at the time that he resented my position.

Q. And is it your testimony that you read that letter and from those points you felt that here is a man who greatly resents me, I better watch out for what he is going to do to me, was that in your mind at the time?

Mr. McNichols: Your Honor, I hesitate, but I am going to object to any further argument with the witness about this. I think he has testified that his knowledge of the man, his reading of the letter, gave him an impression, and I don't see any sense in badgering him.

The Court: Yes, I think you have pursued that far enough.

Q. (By Mr. Tuttle): Now, who else evidenced resentment toward you at that time, Doctor, because of your views [990] expressed in the August 11th letter?

A. I don't think of any other particular thing, except I would say some chilliness in the atmosphere in meeting other doctors who were keen on the bureau.

Q. And Dr. Moore is the only one you could name at that time who expressed any resentment? I am not trying to be repetitious, but I just want to be sure that is your testimony.

A. Well, just this minute, that is the only one I think of. I could add this, Mr. Fullerton was somewhat resentful that I had resigned from the

(Testimony of Miles H. Robinson.)

bureau and tried to persuade me not to go ahead with it.

Q. Well, you mean he just wanted you to stay in the bureau. Was it anything more than that?

A. He gave me the impression that he resented it.

Q. Well, I mean that was his job, wasn't it, Secretary of the bureau, and you expected that he would want you to stay in?

A. Well, I didn't dwell too much on his motives, I didn't know them all; I only know he was resentful.

Q. Well, in what way did he evidence his resentment other than to ask you to stay in the bureau?

A. Well, I suppose it is the way he said it.

Q. Can you tell us how he said it?

A. Oh, I don't believe I could put that into words. It is [991] five years ago; I don't just really recall.

Q. Do you remember what he said?

A. He said, "We hate to see you leave and we hate to have you break our united front." I believe I talked to him a couple of times and the first time he was entirely pleasant about it; the second time he just acted offended.

Q. Well, are you confusing regret with resentment in your use of the term?

A. No, I don't think so.

Q. Now, you testified the other day on direct examination, if I remember right, Dr. Robinson, that

(Testimony of Miles H. Robinson.)

Dr. Pratt was the screener of the bureau, is that correct?      A. Yes.

Q. And I believe you also testified, when you mentioned that Dr. Pratt was the screener, that he had previously evidenced unfriendliness toward you, is that correct?

A. Well, he has exhibited lack of friendship, yes.

Q. And will you tell us in what way he exhibited a lack of friendship to you?

A. I am just trying to think of the dates there.

Q. Well, that would be prior to August, 1950?

A. Oh, I don't think there was any lack of friendship prior to August.

Q. Then, you didn't mean the statement that you made in [992] court the other day that the screener had evidenced unfriendliness toward you, one of the reasons you resigned from the bureau?

A. What statement are you referring to?

Q. I am referring to your testimony in court here about two days ago. I remember that you were testifying about your reasons for leaving the bureau. One of the reasons you assigned to it was that Dr. Pratt, who was the screener, had previously evidenced unfriendliness toward you?

A. I don't recall that at all.

Q. You don't recall? Is it your testimony now that Dr. Pratt had at all times exhibited a friendly attitude toward you up until that time?

A. Well, you will have to give me a date.

The Court: Up to the time of your resignation

(Testimony of Miles H. Robinson.)

from the bureau, isn't that what you are talking about?

Mr. Tuttle: Yes.

The Court: Up to the time of your resignation from the bureau.

A. Well, I don't recall any unfriendliness prior to my resignation from the bureau.

Q. (By Mr. Tuttle): Well, I took down this note the other day in testimony and see if it refreshes your recollection: "Dr. Pratt, who was the screener, had shown some evidence [993] of antagonism toward me."

A. Well, yes, but at what time?

Q. Prior to that time?

A. Oh, I don't recall.

Q. Well, as I recall, in the depositions you told us that Dr. Pratt had evidenced unfriendliness toward you as early as the time before you came into Dr. Robinson's office.

The Court: Dr. Campbell's office.

Mr. Tuttle: Dr. Campbell's office.

Q. You told of a discussion you had had when you were acting as a third assistant in connection with an operation that you had, that you felt Dr. Pratt had been unfriendly toward you?

A. Well, I don't—I remember the incident. It seems to me that was after I came in with Dr. Campbell, but I am not sure just when that was.

Q. You said there were two things—I am reading from Page 332 of your deposition:

(Testimony of Miles H. Robinson.)

“Well, there were two things that bothered Dr. Pratt a great deal that had happened previously.

“Q. What were those?

“A. Well, one of them was I was offered the position of County Health Officer by [994] the County Health Officer for a period when he was going back to get his degree of public health.”

When would that have been?

A. Oh, pardon me. I don't know just when that was.

Q. It had been prior to that time in August, 1950, wasn't it?

A. I couldn't swear to that.

The Court: Pardon me, I just wanted to get the dates of these depositions, as to when they were taken. You have been referring to two depositions of Dr. Robinson, have you not?

Mr. Tuttle: Yes.

The Court: When was the first one taken?

Mr. Tuttle: The deposition in this suit was taken commencing in October and was completed in January, this previous January.

The Court: Yes. I understand. Where was that?

Mr. Tuttle: Those were taken here.

The Court: Oh.

Mr. Tuttle: Now, this deposition from which I have read on several occasions with the green backing here was taken in connection with the American Medical Association's lawsuit.

The Court: Oh. [995]

(Testimony of Miles H. Robinson.)

Mr. Tuttle: And was taken in Chicago in September of 1955.

The Court: I see, all right. This is a later deposition that you have now?

Mr. Tuttle: This deposition, yes, this is in Volume 3 I was just reading, which was taken in January of this year when we completed taking of his deposition.

Q. So that you don't know whether or not the incident that you related to us here concerning Dr. Pratt's displeasure with you about having been offered the position of health officer ahead of him was prior to this August, 1950, date or not?

A. Well, as I think of it, I believe it was.

Q. All right. If it was, can you tell us about it?

A. Oh, I was acting as a kind of third assistant to an operation in St. Mary's with Dr. Campbell and Dr. Pratt and when we left the operating room Dr. Pratt made a remark to me and Dr. Campbell, something about youth replacing age, and he was referring to the fact that I had assisted Dr. Campbell and him, and I don't remember what else he said, but what he meant was that he thought he was not going to assist Dr. Campbell any more and that I would come in and assist Dr. Campbell in his place, and I really didn't pay any attention to the thing at the time at all. I was surprised that he would [996] say this because he said it in such an emotional manner, and, he, being so much older and almost ready to retire himself, I just didn't really see the point of it.

(Testimony of Miles H. Robinson.)

But since that time, thinking of the other things Dr. Pratt has done, why, that little incident back there, which I thought was rather childish and really uncalled for since I hadn't really replaced Dr. Pratt in any way, didn't want to replace him, looking back on it, I thought it showed a kind of resentment that he had against me.

Q. That was all a matter of looking back on things, wasn't it, Doctor; looking at it as of August, 1950, Dr. Pratt had always exhibited, as you looked at it then, a friendly interest in you, hadn't he?

A. Well, I don't think I could say that.

Q. You can't? Tell me why.

A. Well, for one thing, he never sent me any patients. He purported to be a great friend of mine, but I never got any patients from him and it is customary for older men who are about to retire and who claim to be a great friend of yours to send you a patient once in awhile, once a month, maybe, just somebody that when you are too busy yourself. I didn't resent it, that he didn't send me any, but I could see that his friendship was not very deep.

Q. Well, isn't that looking back on it, rather than looking [997] at it from August, 1950? There wasn't anything in your relationship as of August, 1950, to indicate to you that Dr. Pratt was in any way unfriendly toward you, was there?

A. Well, there are all degrees of friendship. I was just stating that I didn't feel that he was any great friend of mine, which I thought that was what your question was trying to bring out.

(Testimony of Miles H. Robinson.)

Q. You just felt he wasn't any great friend of yours, but I am asking you if you felt that he was in any way unfriendly toward you as of August, 1950?

A. Well, I would agree to that; I had no reason to think he was unfriendly to me.

Q. Now, the Public Health Office situation that I mentioned to you a moment ago occurred prior to the time you went into Dr. Campbell's office, didn't it?

A. Yes, yes; it did. At least, I think so, because I was much too busy after I got in Dr. Campbell's office to even consider the idea of taking Dr. Sharp's place as Public Health Officer.

Q. Well, tell us about that, if you will, please.

A. I looked up a note—oh, I keep a kind of a diary, put down little things, and especially after all this trouble started, and did you want what happened to the health thing or did you want when he showed his reaction to it [998] at a later time?

Q. Well, what his reactions were? These were previous.

A. Well, I suppose—well, he resented the fact that the post of temporary Public Health Officer in Walla Walla had been offered to me before it had been offered to him.

Q. On what do you base resentment at that time?

A. Well, I told him in a conversation with him, I just happened to mention casually, and I had this conversation on the 13th of October—the reason I remember is because that was the conversa-

(Testimony of Miles H. Robinson.)

tion when he told me that if I would stop my opposition to the secret committee, that this society would not push this man Brooks to carry out this or to continue his complaint against me. I remember that conversation, that was on Friday the 13th, October the 13th, and we had quite a long talk that day and I just casually mentioned to him that Dr. Sharp had offered me this job as temporary Health Officer, and that was months before that he had offered that to me, and when I told him that, I was really astonished at his reaction. He jumped back in his chair and he kind of glared at me. I was tremendously taken aback, I was really startled, and I just told him this in the most casual way possible, and I knew that he had taken the job himself later, but he acted like he highly resented [999] the fact that it had been offered to me first.

Now, that and that business in the hospital about that operation were the two very odd things about my relationship with Dr. Pratt which just didn't fit the picture of his fatherly interest, which he kind of put on when I would see him.

Q. Now, you say that conversation when you told him casually that you had been offered that position ahead of him took place on October the 13th, 1950?

A. Yes. I remember that date.

Q. How do you remember that so well, Doctor?

A. Because it was Friday the 13th.

Q. Well, should there be any relationship be-

(Testimony of Miles H. Robinson.)

tween Friday the 13th and your telling him that the job had been offered to you ahead of him?

A. Oh, I doubt it.

Q. But, still, you remember that as being the occasion?

A. Well, yes, but, of course, you realize that those dates are all fixed from the fact I have had to go over these dates with my lawyers and what not and study them and prepare copies, and, you see, that was just two days after Brooks made his complaint to the society on October the 11th, which I am not likely to forget.

Q. But that isn't the day that you talked with him about the health office situation, is it? [1000]

A. Yes, it is.

The Court: You mean the 13th, not the 11th?

A. The 13th, I beg your pardon, the 13th. Of course, I wasn't present at the October 11th meeting, knew nothing about it for a solid month.

Q. (By Mr. Tuttle): Well, I am confused on the dates here. I am going to read you some testimony here and see what you say about it. You were saying here, Page 330 of the Walla Walla deposition, that:

“Dr. Pratt called me into his office and said Tom Brooks had signed affidavits alleging certain complaints against me and that he would sue me unless I would stop campaigning against the secret grievance committee.

“Q. That Brooks would sue you unless you

(Testimony of Miles H. Robinson.)

stopped campaigning against the secret grievance committee?

“A. Yes, and he said further that the society would assist Brooks in doing that and in making as much trouble for me as they could unless I stopped campaigning against the secret grievance committee.

“Q. What was your reply to that? I mean, you had something more than just that. Tell me, if you can in substance, what the [1001] conversation was that took place between you and the doctor; that is, did you sit down and have a heart-to-heart talk about these matters that extended over a period of time, or did he make these statements and you walk out of the room? Tell me the conversation that took place.

“A. My reply to his remarks, which I have just given, was that I had done nothing wrong to Brooks, I had no concern whatever on a lawsuit from Brooks, and that the society was entirely wrong in what it had done, and, well, that was about the substance of it, as I recall.

“Q. Do you remember when that conversation took place?

“A. Yes, I do, it was on or about October the 13, 1950.

“Q. On or about October the 13th, 1950?

“A. Yes. The reason I remember was because it was Friday the 13th.

“Q. Friday the 13th. How did you happen to

(Testimony of Miles H. Robinson.)

identify Friday the 13th with the Dr. Pratt conversation?

“A. Well, there is an old superstition you [1002] may have heard about Friday the 13th being a day when calamity might occur. I wasn't sure who was going to suffer a calamity, but I remember on Friday the 13th.

“Q. You had officed in offices which adjoined Dr. Pratt in the Drumbheller Building, had you not, Dr. Robinson?      A. Yes.

“Q. You had them at that time, and for how long had you been there?

“A. Well, ever since I took over Dr. Campbell's practice.

“Q. Can we say you were well acquainted with Dr. Pratt?      A. Yes.

“Q. Would you refer patients to him and he to you when you would be out of your offices or unable to attend a patient?

“A. I think he referred two patients to me in all the time I have been in Walla Walla.

“Q. Had your relationships with Dr. Pratt been friendly?      A. Well, yes, I would say so.

“Q. Had he taken an interest in your practice of medicine as a young doctor in town, as an older doctor might under those circumstances?

“A. Well, he was one of the two men who [1003] sponsored my membership in the society, but I wouldn't say that he took an interest in helping me to start out otherwise.

“Q. You have never had any other conversations

(Testimony of Miles H. Robinson.)

with him about the practice of medicine or visiting back and forth in a friendly way about your mutual medical problems?

A. No, nothing in particular.

“Q. And there was nothing in your relationship with Dr. Pratt until that moment which had ever given you reason to think you weren’t on friendly terms with him?

“A. Well, there were two things that bothered Dr. Pratt a great deal that had happened previously.

“Q. What were those?

“A. Well, one of them was I was offered the position of County Health Officer by the County Health Officer for a period when he was going back East to get his degree in public health.

“Q. Dr. Sharp?

“A. Dr. Sharp. And Dr. Pratt was also offered that position, and when he found out that I was offered it before he was, why, his [1004] attitude and manner, he seemed very annoyed and resentful.

“Q. And you had a discussion about it, did you?

“A. No discussion, I was just disconcerted that such a thing would bother him.

“Q. Did anybody else tell you he was bothered?

“A. Oh, no; he just seemed very annoyed at the time.

“Q. Nobody told you that he had told that?

“A. I have just told you nobody told me.

“Q. Did anybody tell you Dr. Pratt had been

(Testimony of Miles H. Robinson.)

informed you had been offered the position ahead of him?

“A. Why, I told Dr. Pratt that fact and that is——

“Q. (Interposing): How did you happen to tell him that?

“A. Just in the course of idle conversation.

“Q. And you told him you had been offered the position ahead of him?

“A. No, I said I had been offered the position and he eventually took the position, you see, because I turned it down, and I believe it was after he took the position that I told him that. [1005]

“Q. How did you happen to tell him you had been offered the position?

“A. I just told him just in idle conversation.

“Q. Did he say anything at all?

“A. I believe he did.

“Q. Can you tell us what it was he said?

“A. I can only give his general reaction, which I have already mentioned, that he seemed very annoyed to learn this fact that I had this job offered to me before him.

“Q. By anything he said?      A. Yes.

“Q. But you can't tell me all that he said?

“A. It was quite awhile ago, you know, and you remember what a man's attitude was. That can be expressed by his facial expression and whatever words he said and perhaps words he didn't say.

“Q. Do you remember when that was?

“A. No, I don't recall exactly when that was,

(Testimony of Miles H. Robinson.)

but it was before all this trouble. It made no impression on me at the time except I was a little surprised that an [1006] older man who pretended to take an interest in my career would exhibit jealousy over such a trivial matter.

“Q. You say he had been taking an interest in your career? In what way?

“A. He had, as I say, pretended to take an interest.

“Q. Did this pretension evidence to you he was taking a fatherly interest in the medical career of a young doctor coming into town?

“A. Well, you see, Dr. Campbell really sponsored me in the society, but the application blank requires two names and Dr. Pratt was the man that worked with Dr. Campbell on everything, so that is how Dr. Pratt principally signed the application, as I understand it, and Dr. Pratt always evinced the kind of fatherly interest, but I couldn't help noticing he never sent me any patients, but that didn't bother me but is the basis for my statement that I think a lot of his interest was kind of a pretense, especially in view of subsequent events that took place. [1007]

“Q. In view of those events, you now think he was pretending to evince fatherly interest in you?

“A. No, you are twisting my statement; I said especially in view of subsequent events. In other words, previous events and subsequent events, both of them, contribute to my impression that he was putting on a pretense.

(Testimony of Miles H. Robinson.)

“Q. How early did you receive the impression it was a pretense?

“A. Well, I have already told you.

“Q. Well, was it as early as the time he sponsored you by signing your application?

“A. I hardly knew the man then. I am speaking of the fact that he never sent me any patients, and I should say in passing that the older men who are friendly to younger men always have a few patients that they would just as soon not bother with for a variety of reasons, and Dr. Campbell sent me a lot of patients of that sort.

“Q. Were there other doctors in town who were sending a lot of patients after Dr. Campbell [1008] left?

“A. I would say that I was sent patients by many doctors much more than Pratt ever sent me.

“Q. Who would those doctors be?

“A. Oh, I had patients from Dr. Moore, from Dr. Keyes, from Dr. Bohlman, from Dr. Cranor. I would say a third or half of the members of the society at one time or another sent me a few patients, just as I sent them patients.

“Q. And you felt, then, that practically all the other members of the society were evincing more friendly interest in your career than Dr. Pratt?

“A. Well, you know, actions speak louder than words, yes, that's right.

“Q. What was the basis, would you say, of Dr. Pratt's unfriendly attitude evinced by not sending you patients as some of the other doctors did?

“A. That is something I could never figure out.

(Testimony of Miles H. Robinson.)

“Q. Did you give it some thought at the time?”

“A. Oh, I wondered at times, but I was too busy to worry about his feelings or [1009] motives.

“Q. Could it have been that he knew how busy you were and he wasn’t going to overload you with more work than you could take care of?”

“A. I wasn’t that busy.” [1010]

\* \* \*

Q. With that lengthy recitation in mind from the deposition, Doctor, to refresh your recollection with reference to when your conversation with Dr. Pratt concerning the health office matter took place——

A. Well, that is really a very simple situation. The incident about the health officer took place before all this trouble started. The conversation at which Dr. Pratt and I discussed it, or really I just mentioned it and he reacted, when I gave that answer on the deposition I really couldn’t remember when the conversation took place, but a few days ago I was looking through all my notes and I was rather surprised myself to discover that my notes show that this conversation about the health officer business took place on this same Friday the 13th when we talked about much more important matters.

Q. So that, then, you wish to change the testimony which you [1011] gave in your deposition now and say that that conversation also took place——

Mr. Mc Nichols: I object to the remarks of

(Testimony of Miles H. Robinson.)

counsel. You haven't established where he changed any testimony.

Mr. Tuttle: He just said he corrected it. I assumed he was correcting his testimony, Bob.

Mr. Mc Nichols: No——

Q. (By Mr. Tuttle): Maybe I am confused. Didn't you say that you had just went through your notes and found out it took place then?

A. I found out the exact date when I had that conversation.

The Court: At the time of the deposition, you didn't know the exact date, is that it?

A. No, sir; I didn't, no.

The Court: That is what he testified.

Q. (By Mr. Tuttle): You had testified that it had taken place previously.

So then it is your testimony that as of August, 1950, there was no reason for you to think that Dr. Pratt had been unfriendly in any way to you.

A. What was that again?

Q. I am just asking you now if as of August, 1950, when you resigned from the bureau, you didn't at that time think of anything that Dr. Pratt had evidenced unfriendliness toward you? [1012]

A. At that time I had nothing on my mind about any lack of friendliness on the part of Dr. Pratt.

Q. Now, you mentioned Dr. Moore, Mr. Fullerton, Dr. Pratt; were there any other doctors that at the time you were resigning from the bureau evidenced resentment toward you or enmity in any way?

(Testimony of Miles H. Robinson.)

A. Well, now, I don't believe I have said that any doctors prior to my resignation——

Q. Well, I am saying at that time, Doctor?

A. Well, it all developed after that time.

Q. Yes. Well, I am speaking broadly from the time you resigned from the bureau and, we'll say, up until October, were there other doctors who had evidenced resentment toward you in any way?

A. Well, I don't recall anything else.

Q. There hadn't been any other letters to you or anything of that nature?

A. Well, I don't think of anything.

Q. Now, you have mentioned this letter of the bureau to Mrs. Phillips declining to pay a \$17.00 bill of yours, and I believe that is August the 23rd, 1950, the date of that letter?      A. Yes.

Q. Did that letter come as a surprise to you?

A. Yes, it did. [1013]

Q. And you have marked that as, I believe, one of the first overt acts of conspiracy toward you?

A. Well, looking back on it, I would. At the time, the thought of conspiracy didn't even enter my head. The word, I did not even think of the word.

Q. Did you feel that was a malicious act on the part of the bureau, or they were acting in good faith in turning that down?

A. Oh, I felt it was malicious.

The Court: Is that letter in evidence?

Mr. Tuttle: Exhibit 9.

(Testimony of Miles H. Robinson.)

The Court: Yes, all right, I just wanted to know. Go ahead. Yes, I remember it now.

Q. (By Mr. Tuttle): Had you had any discussion with the bureau at all about that matter, or did this come as a shock to you when you got that letter?

A. I had had no discussion prior to receiving that letter on the subject of the letter.

Q. Doctor, I am referring to a letter of yours of May 27, 1952, to George F. Lull, M.D., Secretary of the Judicial Council of the American Medical Association, which has an enclosure contained. Do you recognize that?

Mr. Sembower: What exhibit is that, Mr. Tuttle?

Mr. Tuttle: That has not been listed among the pretrial exhibits, Mr. Sembower. [1014]

Mr. Kimball: It was marked in connection with your Chicago deposition in this case.

Mr. Mc Nichols: May we examine that, Mr. Tuttle?

Mr. Tuttle: Yes, sure.

(Document handed to counsel.)

Do you have any objection to this being offered as an exhibit?

Mr. Mc Nichols: We haven't had time to look it over.

Mr. Sembower: We haven't had a chance to look it over.

(Testimony of Miles H. Robinson.)

The Court: You can have it marked if you are going to use it for cross-examination.

Mr. Sembower: I would like to reserve objections to it.

The Court: Yes.

The Clerk: That will be Defendants' Exhibit 509.

Mr. Sembower: I think everything there is something we have seen before but in other connections. I just don't know how it fits here.

Mr. Kimball: May I say, your Honor, that that was marked as a part of the plaintiff's deposition taken in this case, which I presume is before the Court, and not only seen but was introduced.

Mr. Mc Nichols: Produced by who? [1015]

Mr. Kimball: By you.

Mr. Mc Nichols: We are speaking personally. We hadn't seen it.

Mr. Kimball: I meant the plaintiff.

Q. (By Mr. Tuttle): Well, Doctor, I am showing you Defendants' Exhibit 509 for identification and ask you if that is a letter written by you to Dr. Lull? A. Yes.

Q. And does that enclose some other documents?

A. Yes.

Q. And will you tell us what the enclosure is?

A. Well, it is a copy of a talk I gave before the Judicial Council at the time of the hearing of my appeal December 2, 1951.

Q. And does that appear to be a correct copy of it?

(Testimony of Miles H. Robinson.)

A. Yes. Wait a minute, I only see one page. No, that is all right, the two pages are there.

Q. Now, it is your testimony that on August the 11th you wrote your letter stating the reasons why you expected to resign from the bureau, correct?

A. Yes.

Q. And on August the 17th you wrote your letter resigning from the bureau, and on August the 23rd, was it, the Phillips letter was written?

A. Yes. [1016]

Q. And you have stated that you felt that was a malicious act and that came to you as a surprise, it was the first notice that the bureau had given you that your fees were not going to be paid in connection with that case?

A. Well, that letter was the first indication of any objection to my bill on Mrs. Phillips.

Q. I see. Now, that was the first indication, then, that the bureau objected to the payment of that bill in any way? A. Pardon?

Q. That was the first indication by the bureau that they objected to the payment of that bill and weren't going to pay it?

A. Well, so far as I can remember, and I'm just sure that that was the first idea that I had they were not going to pay that bill, because I was really startled when I got the letter.

Q. Well, now, in this enclosure from the eight minute speech before the Judicial Council in Los Angeles on December the 2nd, 1951, on page 2 of

(Testimony of Miles H. Robinson.)

that enclosure, Doctor, the first paragraph on that page says this:

“The precipitating factor in my resignation from the Medical Bureau was its refusal to pay for \$17.00 worth of urinalysis and urine cultures which I performed in my office on a [1017] Bureau patient in connection with my diagnosis, treatment, and my cure of this patient.”

Would you like to read that?

A. What was your question?

Q. Well, my question was whether or not you made that statement that that was the precipitating factor in your resignation from the bureau?

A. Oh, yes, I made that statement.

Q. Well, how could it have been the precipitating factor in the resignation if you had resigned on August the 17th and this letter to Mrs. Phillips from the bureau dated August the 23rd was the first evidence you had had of any objection on the part of the bureau to the payment of your fee?

A. Yes, there is an inconsistency there. [1018]

\* \* \*

The Witness: I would like an opportunity to explain that inconsistency, if I may have it.

Q. (By Mr. Tuttle): That's right, I was going to ask, Doctor, how you explained it, if you please? Go ahead.

A. Oh. You are quite right, the statement says there that a precipitating factor in my resignation from the bureau [1022] was this letter about Phil-

(Testimony of Miles H. Robinson.)

lips and the resignation did occur on the 16th or 17th of August and the letter to Phillips occurred on the 23rd, later, so that statement couldn't possibly be true.

And I will tell you what happened. I wrote that little talk in the Pullman car going to Los Angeles and I think I still have my rough notes——

Q. Like Lincoln's Gettysburg Address?

A. Well, I wrote it down and I just wrote it out of my head without consulting any documents or anything and later typed it up out of my handwritten notes, and that is a clear mistake there and that is how it happened. The reason that I resigned from the bureau is entirely set forth in my letter of August the 11th in great detail, and after I resigned I got this Phillips letter, which startled me, but it is perfectly true that the Phillips letter had nothing to do with my resigning from the bureau.

But in my mind at the time, I had all those things together, because, you see, this happened in August—let's see—yes, August of 1950, and I was on the Pullman car in December or the last part of November of 1951, over a year later.

Q. But you did send that to Dr. Lull, did you not?

A. Well, I made that talk before the Judicial Council of the [1023] AMA in Los Angeles and I made a copy of the talk, and when I was trying to send Dr. Lull everything of this trouble, I sent him a copy of the talk, but I can tell you entirely

(Testimony of Miles H. Robinson.)

frankly that I at that time in no way noticed that there was a discrepancy of five days there as to the resignation time and the Phillips letter time, so it was absolutely an unintentional mistake

Q. Do you think you didn't make that statement in your talk, you think it was just a typographical error later when you were typing your notes?

A. No, no, I must have made the statement in my talk, because that faithfully reflects my notes of what I said to the AMA, and it is obviously an incorrect statement. But I doubt—I haven't had a chance to think it over as to whether there is any significance to it or not. I don't believe [1024] there is.

\* \* \*

### J. MARK ROBINSON

called and sworn as a witness on behalf of the plaintiff, was examined and testified as follows:

#### Direct Examination

By Mr. Sembower:

Q. Will you state your full name, please?

A. J. Mark Robinson.

Q. Where do you reside, Mr. Robinson?

A. Tunkhannock, R.D. 5, Pennsylvania.

Q. And what is your occupation?

A. Farmer.

Q. Are you related to the plaintiff, Dr. Miles H. Robinson?

A. I am his brother.

(Testimony of J. Mark Robinson.)

Q. Are you also a brother of Walter H. Robinson?  
A. Yes.

Q. And where does he reside, if you know?

A. Vancouver, Washington.

Q. What was the name of your father, Mr. Robinson?  
A. Louis N. Robinson.

Q. Was he a medical doctor?

A. Doctor of Philosophy, economics.

Q. Is he still living? A. No.

Q. When did he die, if you recall? [1027]

A. November 25, 1952.

Q. Mr. Robinson, of whom does the immediate family consist, that is, the brothers and sisters in your family?

A. Well, there are six children, my brother Walter, my brother Miles, my sisters Alice and Christine, I am the fifth, and my brother Thatcher the sixth.

Mr. Sembower: I have Plaintiff's Exhibit 268, purporting to be the last will and testament of Louis N. Robinson—

The Court: What was that number?

The Clerk: 268.

Mr. Sembower: 268.

The Court: Oh.

Mr. Sembower: And ask that it be admitted at this time. It is a certified copy of the will.

The Court: Any objection, gentlemen?

Mr. Kimball: No objection.

The Court: It will be admitted, then.

(Testimony of J. Mark Robinson.)

(Whereupon, the said document was admitted in evidence as Plaintiff's Exhibit No. 268.)

Q. (By Mr. Sembower): Are you the J. Mark Robinson who is named co-executor with Walter H. Robinson of the last will and testament of Louis N. Robinson?      A. I am. [1028]

Q. Plaintiff's Exhibit 268. I show you Plaintiff's Exhibit 114, which has been admitted in evidence. This exhibit is a letter written by Dr. Wallace A. Pratt to Dr. Louis N. Robinson, dated May 24th, 1951, and I ask you, Mr. Robinson, if you recognize the handwriting in the notations in the upper right-hand corner of this letter?      A. Yes, I do.

Q. What are they, if you recall?

A. They are my notes of a conversation with my father when he showed me the letter.

Q. Written in your own handwriting?

A. That's right.

Q. What are the words that appear there?

A. "Dr. Campbell," whom I believe refers to the man who gave Miles his practice; "Dr. Johlin," which is Miles' father-in-law; "Sally," which is the sister-in-law. The other word, that is, "Loessel," that is Sally's married name.

Q. What was the occasion of your writing those names on this letter, if you recall?

A. Well, it was shortly after receiving this, my father got it, I don't know how he got in touch with me, anyway, he discussed it with me.

(Testimony of J. Mark Robinson.)

Mr. Kimball: If the Court please, I think maybe this is hearsay evidence.

The Court: Well, I think he can show it was discussed. [1029]

Mr. Sembower: Yes.

Q. You did have a conversation with your father after receipt of this letter?

A. Several discussions.

Q. And then there was a discussion at that conversation of the letter? A. Yes.

Q. And then following one of those discussions, these names were written here?

A. I think that was during the first.

Q. What were the names, what do the names represent?

A. Well, my father wanted to make some inquiry—

Mr. Kimball: If the Court please, I object to his stating what his father said.

A. All right, I will try to skip it. The question is what—

Q. (By Mr. Sembower): Yes, I wanted to know what these names represented here.

A. They are the names of Miles' wife's family and the only other person that my father and I knew of in Walla Walla. They are other people that we knew.

Q. That you knew of in Walla Walla?

A. Yes.

Q. And the only persons in Walla Walla that you knew of at the time? A. Yes. [1030]

(Testimony of J. Mark Robinson.)

Q. I show you Plaintiff's Exhibit 120, which has been admitted, which is a telegram from J. Mark Robinson to Miles H. Robinson. Where was your father living at the time that he received the letter from Dr. Pratt, if you recall?

A. His residence was near Philadelphia, but at this time he was in his summer cottage which was adjoining my farm in northeastern Pennsylvania.

Q. Did you know the condition of your father's health at this time?

A. I was very familiar with it as when with somebody in your family. I am not a doctor.

Q. And what was his health at the time?

A. He had had a slight stroke and a slight heart attack and he was on a restricted regime. He was ordered to take it a little easy.

Q. What was the condition of his mental health, if you know?

A. My father was very sharp to the day he died.

Q. When did he die, Mr. Robinson?

A. November 25th, '52. He was mounting his horse when he had a fatal cerebral hemorrhage.

Q. Is that so? Did he retain his business connections during this period?

A. Up until the day of his death, yes.

Q. Did you know at this time who Dr. Pratt was? [1031]

A. No, sir.

Q. Did your father indicate any recollection of Dr. Pratt?

A. Not that I recall. [1032]

(Testimony of J. Mark Robinson.)

Q. (By Mr. Sembower): Did you observe the condition of your father's health after the receipt of the letter from Dr. Pratt?

A. Yes, as a lay person.

Q. And what did you observe?

A. I was concerned about it.

Q. Why were you concerned, the observations that you made which caused that concern?

A. He was agitated.

Q. Was he able to travel at this time?

A. He didn't feel able to go to the West Coast.

Q. Why did you send the telegram to Miles, that is, Plaintiff's Exhibit 120, Mr. Robinson?

A. My father wanted to see Miles. [1033]

Q. And that was the reason you sent the telegram? A. That's right.

Q. Did you send the telegram after the discussions to which you have testified took place with your father? A. Yes.

Q. To your knowledge, did anyone else in Walla Walla write your father about this matter?

A. Not to my knowledge.

Q. When and where, if you know, did the Pratt letter, so-called, come to light among your father's personal effects after his death?

A. I know quite well how that happened because I had the responsibilities of executor of disposing of his effects. My father maintained files all his life on all his correspondence, and that which concerned any child, for instance, mine, was filed under my

(Testimony of J. Mark Robinson.)

name, as Miles' was filed under his name, and the executor had to make some decisions what to do with these voluminous files, and as far as those referring to any one of the children, each file was given to the child concerned, so that I got my file, Miles got his file.

Q. And where, to your knowledge, was the Pratt letter located?

A. Well, it must have been in Miles' file. In fact, I know it was. By Miles' father, I mean my father's file with [1034] Miles' name on it.

Q. I see. Referring to the deposition in this case taken of Wallace A. Pratt, I find on page 38, line 24, the answer given by the defendant Dr. Pratt to a question presented on cross-examination by Mr. Rosling, and he states—well, let's see, in order to give a little setting for this:

“Q. In your testimony, Dr. Pratt, you referred to the fact that Dr. Miles Robinson had been in trouble at various times throughout his career. In your conversations with any of the members of his family, have you been advised of any incidents or character traits of his boyhood years?”

A. Well, of course, I only talked with his brother. The brother said that he had had.

Q. In that he——

A. That Miles had been temperamental or something of that sort and even as a boy, he had tantrums and he said they had to put him in a strait jacket, he was so uncontrollable. I remember that distinctly, his brother telling me that.”

(Testimony of J. Mark Robinson.)

Q. Mr. Robinson, do you remember any incidents of Miles' childhood or the time that he lived with the family to which that might refer? [1035]

A. I have no such recollection.

Q. You were raised with Miles, were you?

A. We were a big family, yes.

Q. And was Miles given to tantrums?

A. I wouldn't say nothing ever happened any more than any other child, anything abnormal, no, definitely no.

Q. Dr. Pratt also refers in his deposition to stormy periods.

The Court: Did Dr. Pratt say what brother had told him that?

Mr. Sembower: He is referring here to Walter.

The Court: To Walter, I see.

Mr. Sembower: Yes, but I thought we would ask this witness while he was available if he remembered any incidents relative to that that might form the basis for that.

Q. Dr. Pratt refers in his deposition to stormy periods in Miles' life. Do you know to what that could refer? A. No.

Q. Of your own personal knowledge, do you know of Miles having stormy periods in his life?

A. No.

Q. Mr. Robinson, did your father attach a codicil to his will? A. Yes.

Q. When did he attach that, if you [1036] recall? A. Which codicil do you refer to?

Q. The codicil relating to Miles Robinson.

(Testimony of J. Mark Robinson.)

Mr. Kimball: If the Court please, I believe the will would be the best evidence of the question being asked. A. May I see the will?

Mr. Sembower: Yes.

The Court: The codicil is attached to the will?

A. Yes, sir.

Mr. Sembower: The codicil is attached to the will.

A. The first codicil was executed the 28th of June, 1951.

Q. I believe you testified, Mr. Robinson, that you were very close to your father at this time?

A. I was the oldest son in the east and he was living adjoining my farm and we have always been close.

Q. And at this time, were you closely and intimately acquainted with his business relations, relations with the family, and so on?

A. My father had been in failing health and, although his judgment remained unimpaired, his strength was limited, and I performed considerable services at one time or another in his office for him. I helped him fill his income tax out, that sort of thing.

Q. Do you know of any circumstances whatsoever other than the Pratt letter which caused your father to add this codicil? A. No. [1037]

Q. Referring to Plaintiff's Exhibit 198, which is a photostatic copy of a letter from Wallace A. Pratt, dated April 9, 1952, found among the papers

(Testimony of J. Mark Robinson.)

subpoenaed from the American Medical Association files, I find here the statement:

“This is to certify that I have known Dr. Miles Robinson well and his family for over ten years, and at the request of the officers of the medical society, conferred with him at least three times with a view to resolving the matters in dispute.”

To your knowledge, Mr. Robinson, was Dr. Pratt well known to Miles' family over a ten year period?

A. I can only speak for the part in the east. I don't think we had ever heard of him. I know I hadn't, I never had heard of him.

Q. To your knowledge, did any of the members of the family, in the East know him over a ten year period?

A. Well, that was impossible, because we have never met him, with the exception my father may have met him once, possibly, here.

Q. Mr. Robinson, does Miles presently hold a responsible position in connection with the family savings corporation, of which you are a member?

A. Yes. [1038]

Q. What is that position?

A. Well, Miles is a director of this corporation, he is assistant secretary-treasurer.

Q. When was he chosen for it?

A. Well, I should know very well since I manage it. It was about two years ago and I think he has been re-elected once.

Q. And what are his duties in connection therewith?

(Testimony of J. Mark Robinson.)

A. Well, the major problem, of course, with anyone with savings is how to invest them, and that is what we spend most of our time worrying about, and beyond that, he is assistant secretary-treasurer. He signs checks in my place, in my absence, and, as any one of the directors—you see, I bear the major responsibility. So the family could relieve me of some of that, I can't sign checks at all and I can't get in the safety deposit box on my own, it takes two people. Miles can get in the box; I can get in the box with Miles' help.

Q. And who are members of that group?

A. Well, the directors were a smaller group than the members. Which do you refer to?

Q. Well, both of them?

A. Well, the members consist of about 35 people. I am a member of a large family, cousins, and so on.

Q. And these persons all participate in these activities? [1038-A]           A. Yes.

Q. And how was Miles chosen for this work, to work with you and sign checks and so on?

A. Well, when he returned to the East he became available. He wasn't an officer, he was a member, but he was not an officer, living in the West. When he returned to the East he was available to help us and we have always asked him to help us. We valued his opinions, and so on.

Q. Go right ahead.

A. Well, we feel he has something to contribute

(Testimony of J. Mark Robinson.)

or we wouldn't have asked him. He has no large holding in it, as I don't.

Q. But the members of the family had confidence in him for this position, to your knowledge?

A. Yes, sir.

Mr. Sembower: I think that is all.

### Cross-Examination

By Mr. Kimball:

Q. Mr. Robinson, what is your age?

A. You probably think it is silly, I have to figure. I was born in 1919 and I haven't had a birthday yet, so I am 36.

Q. And how old is your brother Miles?

A. My brother Miles? Well, I would say my brother Miles is about five years older than I am. I don't know how close I am.

Q. Would you put his age, then—would you specify his age, actually, of Miles?

A. No, I said he is about five years older than I am, six, something like that.

Q. Then Miles was eight years old when you were three years old?

A. If my calculations are correct. I don't know, I am not prepared to answer the question. I couldn't even tell you my own age. [1040]

\* \* \*

## MILES H. ROBINSON

plaintiff herein, having previously been duly sworn, resumed the stand and testified further as follows:

Cross-Examination  
(Continued)

By Mr. Tuttle:

Q. Dr. Robinson, what was the date that you first saw Mrs. Brooks?

A. Well, it was about the middle of February, 1950.

Q. She had been a patient of Dr. Campbell's office, had she?           A. Yes.

Q. And I believe you testified that Dr. Campbell introduced Mrs. Brooks to you as a mysterious neurological case, wasn't that the term you used?

A. introduced her to me, yes. You could say, as a mysterious neurological case.

Q. And do you know how long Dr. Campbell had been looking into the matter of her difficulties?

A. I couldn't tell you right from here, but my case records may show that. It was some time.

Q. You mean by some time, a period of days or weeks that he had been treating her?

A. I was under the impression that he had had charge of her case for several months.

Q. Several months?

A. Yes. Perhaps longer. He may have been seeing her since [1041] she got here in this country, because I know he knew the family. Well, quite some time.

(Testimony of Miles H. Robinson.)

Q. Did you examine his records at the time you took over her case?

A. Dr. Campbell kept practically no records on patients. He had a prodigious memory and he had everything in his head.

Q. Well, did you discuss with Dr. Campbell what he had done in the way of looking for symptoms of her disease, what tests he might have made on her, and so on?

A. Oh, I am sure I did. I routinely discussed that with him on any patient that he turned over to me.

Q. Do you recall what he had told you that he had done, what his tentative findings might have been?

A. I don't exactly, no. I don't have any definite recollection. I can only say that I would have asked him routine questions about it. I don't remember what he said except that she had some obscure malady.

Q. Do you know whether or not he had done any blood tests on her?

A. Yes, I know that, he had not.

Q. He had not done any? A. Yes.

Q. Blood tests? A. That's right. [1042]

Q. Nor any spinal fluid tests on her?

A. I am quite certain he hadn't, he had done no spinal tests on her, because I know he would have told me if he had and would have told me the results.

(Testimony of Miles H. Robinson.)

Q. Such records as Dr. Campbell might have had on her case, are they in your possession?

A. What Dr. Campbell kept, he kept—his laboratory assistant kept a record of any injections that were given to patients and of any lab work done in the office. She kept all that. He also had a flock of little cards on his obstetrical patients noting when they were likely to have their babies. And the only other thing he had—well, he had two other things—he kept letters of other doctors who wrote him about patients in case there was a referral for a consultation, and then he had a great file of X-ray films on patients.

Q. And do you have custody of all those records now, or did Dr. Campbell retain his own records?

A. The X-ray films were largely destroyed because they were no use to me. I kept a few of the laboratory reports of injections on different patients where it seemed likely they would be useful, and I either didn't get anything else or I didn't keep anything else.

Q. In other words, you don't think that you have in your custody any of Dr. Campbell's records on Mrs. Brooks? [1043]

A. Well, I am quite sure I do not. I haven't looked at that file just lately. There weren't any records on her.

Q. Now, can you refer to your memory on these matters, or would it be better while we are discussing her case if you had the exhibit, her case record? Would that be helpful to have that?

(Testimony of Miles H. Robinson.)

A. Well, I would have to have her case record if I were to discuss her case.

Mr. Tuttle: Do you know which one that is, Tom?

The Clerk: What is the name? What patient?

Mr. Tuttle: It would be Mrs. Tom Brooks.

Mr. Rosling: 270.

Mr. Tuttle: I think you also better give me the file of Tom Brooks.

Q. Didn't you say the other day, Doctor, that part of Mrs. Brooks' case records were in the Tom Brooks' file?

A. Some of the lab work were in the other file.

Q. I hand you Plaintiff's Exhibits numbers 269 and 270 for your use in connection with these questions, Doctor.

Can you tell us now what date it was that you first saw Mrs. Brooks? A. Mrs. Brooks?

The Court: Mrs. Brooks, was it, you said?

Mr. Tuttle: Mrs. Brooks, your Honor. [1044]

The Court: Mrs., oh.

A. I couldn't tell you exactly from these case records, because I did not make a notation the very first time I saw her, possibly. Now, I am not sure of that. The reason was that so many patients came in on me all at once there, that my record system on patients just broke down temporarily, and I was checking through the day sheets the other day and I wasn't quite clear whether I had seen her before I actually made a note on her. The record here on her shows February 9, 1950, but

(Testimony of Miles H. Robinson.)

the day sheets—well, I can fix it quite closely. The day sheets may show that I saw her in the preceding nine days, because I went into Dr. Campbell's office on February 1st, 1950, and the record shows I saw her on the 9th and I may have seen her a couple of days before that, and, as I often do, when you first see a patient if you don't think it is going to amount to anything, I do not open a file and open a record necessarily. But if the case develops and looks like it is going to be quite a problem, why, then, I start catching notes and I try to get back to the first day I saw her with my notes, but I don't always make it.

Q. Would you be able to tell by looking at the day sheets if you had seen her prior to that time?

A. Oh, yes; that is quite possible on the day sheet. [1045]

Mr. Tuttle: May I have Exhibit 292, please?

The Clerk: Has it been admitted?

The Court: It has been admitted, yes, 282.

Q. (By Mr. Tuttle): Doctor, can you tell from looking at these two exhibits here which one of these is the day sheets that you want to look at?

A. The ones in your right hand.

Q. Which will be exhibit, then, 303.

The Court: What is the number of this one?

Mr. Tuttle: This one is 303, your Honor.

The Court: 303, all right.

A. Yes, this seems to be quite definite here. February the 9th, 1950, Mrs. Brooks was seen by myself and Dr. Campbell together.

(Testimony of Miles H. Robinson.)

Q. So that that would have been the first time you saw her and would have been the date that Dr. Campbell introduced her as this mysterious neurological case; would that be correct? A. Yes.

Q. And what did you do on that day, what do your records reflect?

A. Well, the day sheets show that we took a white blood count and that she was given an injection. Then my notes on her, which I now see, I have made to show that I saw her on the 9th of February. Do you want me to read [1046] all my notes on her?

The Court: He asked you what you did on that date.

Q. (By Mr. Tuttle): Just tell us what you did on that date.

The Court: On the 9th of February.

A. Well, I remember that I examined her for probably forty-five minutes, perhaps a little longer, and I took a complete history of every conceivable thing that she could tell me or that I could ask about about her entire health, and then I went over her in an examination generally and with particular attention to this paralyzed left foot.

Q. (By Mr. Tuttle): Now, to start with, I think you mentioned she was given an injection on that date. Can you tell me what that injection was?

A. Yes, she was given two injections. The first thought, of course, was that she had osteomyelitis, which is an infection of the bone, because she had been examined by Dr. Platner. Let's see, where is

(Testimony of Miles H. Robinson.)

that? Yes, she had been to Dr. Platner and he took an X-ray of her and found deterioration of the hip socket on the left side, and my note shows here, "been to Dr. Platner, X-ray, who found deterioration of hip socket, but FM—" that is Dr. Campbell—"disagrees. FMC thinks—" I have here "left hip higher."

Of course, these notes were written in a big hurry, [1047] as I usually did, and what I think I meant was that he thought the trouble came from higher up than the left hip.

So in a case like that, you can't lose with penicillin, it can't hurt you, and it has a tremendous effect on an infinite number of conditions, so we just gave her some penicillin immediately and we also gave her an injection of reticulogen, which is a high potency liver extract and is a specific cure for neurological conditions of pernicious anemia type, which often show neurological signs exactly like Mrs. Brooks had.

Now, you asked me what I did. In addition to the history, I went all over her and examined her neurologically, of course, from head to foot.

Q. Does your record show when she had seen Dr. Platner?

A. No, they do not. I was looking to see whether we took a blood test that very day and I don't remember whether we did or not. My recollection is we did. Yes, we did, because the blood test here shows Walla Walla County Health Department, Lab. No. 490, name is Brooks, date obtained Febru-

(Testimony of Miles H. Robinson.)

ary 9, 1950, and stamped above that is February 14, 1950, which is the laboratory date when they did their work on it.

So my recollection is correct, I immediately suspected syphilis and took a routine [1048] Wasserman.

Q. Now, will you tell me what her medical history was, according to your recollection as you refresh it from your records?

A. Why, my notes here say "two years—leg." That just means that she has had trouble with that leg for two years that she knew about. She says here, or rather she told me, "Began after a bad fall two winters ago." She had always been in ill health, it says. She had had some trouble with her heart. she had had a backache, she had a very bad time sleeping, severe insomnia is what the note said. She had a right tube and ovary out in England, the tube being the little pipe connection between the ovary and the uterus. She had occasional urination, a history of infection of the urinary tract, which began after catheterization in the hospital when she had her operation. This condition was acute a year and a half ago.

Now, that is all that my notes show on that particular day.

Q. Well, now, what do your notes show with reference to your examination as to what your findings were, what your diagnosis was?

A. Well, let's see, physical examination. She had a drop of the left foot, mainly in the perineal group,

(Testimony of Miles H. Robinson.)  
that is, it is the perineal muscles. They are the muscles that [1049] run down the outside of the leg which are responsible for this foot drop. She has no change in sensation. See, I went all over her with a pin from head to foot. The foot is cold to the touch. She has only very slight extensor power, the ability to lift the foot. Almost no response of any kind to the Babinski test, which is where you run a sharp tool up the outside of the foot and the big toe lifts automatically when the test is positive.

Her knee jerks, "KJ," that is where you tap right below the knee, are increased on the left, but they are exaggerated on both legs. The reflex of her biceps of the arm, they are about equal, and her hand power was equal, her muscular power. You take a hand of the patient in each of your hands and ask them to squeeze that and that tests the power in their arms.

Her pupils, however, react to light, which often is lost in the disease I suspected.

Now, that covers my notes at the time, but, of course, doesn't cover all that I did. I only tried to hit the high spots when I wrote this down.

Q. Do you remember other findings which you didn't write down?

A. Yes, I remember—you see, it is this way: When you examine the eyes, you have three things you do to the [1050] eyes. The question is whether the eyes react to light, whether they react to accommodation, and let's see, what was the other one? And the ocular movements, whether the eyeballs

(Testimony of Miles H. Robinson.)

swing around in a normal way, and, of course, if I had found anything positive in that, I would have written it down, but I noticed particularly that the pupils react, because one of the most subtle tests for syphilis is the failure of the pupil to dilate when you shine the flashlight in the eyes and that is due to neurosyphilis, so she didn't have that test positive.

Well, as far as any further recollection goes about her as of this time, she was walking with a cane, limping. Well, I couldn't tell you anything else at this time.

Q. Well, then, when was it that you made your diagnosis?

A. The diagnosis was made when the laboratory test came back positive.

Q. Can you tell us what date that was?

A. The test was taken on the 9th of February, yes, and my notes show on the 15th of February as follows: "Lab reports a positive on Brooks," and then I have "—no name on the lab slip." Now, that, how that happened, I don't know exactly. She was apparently the only test I made at that time and the secretary generally fills out [1051] those slips. I believe there was a little concern at the time about that.

The Court: This question was when he got the report back from the laboratory, wasn't it, the date? That is all he has asked you this time.

A. I beg your pardon.

The Court: Is what was the date you got the report back?

(Testimony of Miles H. Robinson.)

A. February the 15th, 1950.

Q. (By Mr. Tuttle): And you were just testifying that that report didn't bear any name, but you believe it was Mrs. Brooks' report, is that correct?

A. Oh, yes. Well, there was no question that it was her report, but somehow or other the girl apparently didn't put her name on it.

I just feel I should say that we, of course, checked it right away again and—wait a minute, wait a minute, now. It says here—well, I think what we did right away was we did another test right away for that very reason, because we have another test here dated May 15, 1950, which would be the day we got back the unnamed slip and that has happened before. And this new test was taken on May the 15th, 1950, and that has the name Brooks on it. I don't know——

The Court: The new test was February the 15th? [1052]

A. Yes, your Honor.

The Court: That is when the blood sample was taken?

A. Yes, another test.

Q. (By Mr. Tuttle): I think you referred to May 15th when the other test was taken.

The Court: You misspoke when you said May 15th, didn't you?

Mr. Tuttle: I don't believe so. I think his record shows he took one on the 15th of May.

(Testimony of Miles H. Robinson.)

The Court: Oh. Well, I just thought he meant February 15th. Go ahead.

A. Well, the first blood was taken February the 9th, 1950.

Mr. Tuttle: Yes.

The Court: Yes, I understand that.

A. And the second blood was taken May the 15th.

The Court: May the 15th.

A. 1950.

The Court: I see.

Q. (By Mr. Tuttle): So that then you think that you took this May the 15th test because there had been confusion about whose report came back on February the 15th?

A. No, no, it was taken primarily because we always repeat a positive test. It is too serious a matter to go on a single test, and the fact that the first slip wasn't named was an annoyance but had nothing to do with [1053] repeating the test. My records will show I always repeat a test at least twice, or at least two times altogether.

Q. But it was three months later before you repeated the test?

A. Oh, no. Oh, I see. May the 15th, I am confused, I was thinking that was February.

Well, now, let's see, I have another one here, have to get these in order.

Now, paying more close attention to the month, I was just thinking of the day, close attention to the month, I have a test here of February the 16th, 1950. It says 2-16-50.

(Testimony of Miles H. Robinson.)

Q. Now, with reference to that one, Doctor, do you think that is why you did the test again on 2-16, because of the fact that an unnamed slip came back on February the 15th?

A. No, my answer that I have given explains the situation, except that I was all mixed up about the two months of May and February. No, that test we took on February the 16th, we took 95 per cent of our reason, we would have taken it anyhow, was simply a repeat, and it was merely an annoyance that we got back a slip without her name on it the first time.

Q. Well, then, it is your testimony that it was on February [1054] the 15th that you made your diagnosis, to get back to that, is that correct?

A. It says February the 15th and the only way that that would work out is that I frequently called the laboratory on the phone before they would—let's see. I don't know if that would account for the difference in one day there or not. I often did that.

Q. Well, isn't it your testimony that a report came back on February the 15th, a report was received by you on that day?

A. Yes, the lab reports that. And I will tell you what I think that means. That means that I must have telephoned them, because my recollection is that I would write the lab reports something, that was a personal report to me. I used to call Mrs. Neumeir quite often when I had a case that interested me very greatly and ask her to tell me on the phone what the situation was. Now, I see that is dated

(Testimony of Miles H. Robinson.)

the 16th, so there is an error of one day there and I can't account for that, I don't know what the deal is there.

Q. Well, I am not trying to pin you down to detail on that, but I want to know on what day you made your diagnosis, if you can tell me, Doctor?

A. Well, I tell you I may have just written the wrong date here. I sometimes would write the wrong date, 15 instead [1055] of 16, and perhaps the date, if you are anxious to clear this point, the day sheets may show whether I actually saw her on the 15th or 16th.

The Court: Can you answer the question, Doctor, when you made your diagnosis of Mrs. Brooks the first time, from your records or memory or any other way? That is the question.

A. Yes, your Honor, I made the diagnosis when the laboratory report came back approximately February the 15th or 16th.

The Court: All right.

Q. (By Mr. Tuttle): And what was that diagnosis? A. Syphilis.

Q. Of course, you testified the other day that syphilis takes on a great variety of forms. What type of syphilis was it that you diagnosed?

A. Neurological syphilis.

Q. Well, don't you have terms for all the various types of neurological syphilis? I just wondered what type of neurological syphilis you called it?

A. Well, at that point I had not broken it down into subcategories. It was just neurosyphilis.

(Testimony of Miles H. Robinson.)

Q. Just neurosyphilis as of that time. Did you ever break it down into the subcategories?

A. I don't believe I did particularly, no.

Q. In other words, you made a diagnosis on that date of just general neurosyphilis without breaking it down into any [1056] of the subcategories and continued with that diagnosis from that date forward, is that correct?

A. Well, in all complicated diagnoses, you make first a provisional diagnosis and then the thing is either strengthened or weakened by subsequent findings.

Q. But my question is, you never broke it down into anything other than just a diagnosis generally of neurosyphilis? That was as far as you went in breaking it down? A. Yes, that's right.

Q. Now, what were the findings upon which you based this diagnosis?

A. First, the positive Wasserman; second, the paralysis of the left foot; thirdly, her history was highly suggestive of it. You take a case of——

The Court: That is the answer then, I assume.

A. Yes, your Honor.

The Court: Yes, all right.

Q. (By Mr. Tuttle): Now, just to be a little bit more specific, which of the findings that you made there were indicative of the syphilis? One would be the Wasserman, would it not? A. Yes.

Q. What did that Wasserman show?

A. Positive. I might say in passing that we used

(Testimony of Miles H. Robinson.)

the Kahn in that case, which is the same as the Wasserman for all [1057] practical purposes.

Q. Is that rated as to quantity in any way?

A. Yes, they have a quantitative evaluation of it, which is not very reliable.

Q. And what quantitative evaluation?

A. 2 plus, they have.

Q. 2 plus?           A. Yes.

Q. I believe you testified the other day that she showed a strongly positive serological test for syphilis?

The Court: The maximum is 4 plus, isn't it, Doctor, on that system of gradation? I just wanted to get into the record what the system of grading is. What is the maximum?

A. It is a little confusing because there are different plusses in the Wasserman system and different plusses in the Kline system.

The Court: Well, you are not using the Kline, are you; you are using the Wasserman or Kahn?

A. Well, I regret to say, your Honor, that I think we did nothing but Kahns on her, but a Wasserman is sort of a colloquial way to refer to a positive test from long usage.

The Court: Yes, I know that, but what is your system of gradation quantitatively? Isn't it 4 plus, the maximum?

A. Well, I am not trying to confuse the issue, I wanted to [1058] check here for a minute.

The Court: Well, I thought I was trying to make something very simple a little clearer, but I will give up. Go ahead.

(Testimony of Miles H. Robinson.)

A. Well—

The Court: Never mind, Doctor; go ahead.

Q. (By Mr. Tuttle): Well, can you give us an answer to that question the Judge asked you, whether or not you get Kline ratings of 4 plus, 3 plus, 2 plus, 1 plus?

A. Well, it is combined with what is called Kahn units. That is the reason I hesitated. And that is combined with the dilution which is effective, and you have three factors, 1, 2, 3 or 4 plus, and the higher the plus, the higher the Kahn units, and the higher the Kahn units, the higher the dilution, and I just wanted to be sure before I answered that I could describe the inter-relationship of those three factors, and, actually, I haven't thought about this for three or four years and it just escaped my memory for the minute.

But in answer to your question, the way at least it was being done at this laboratory at this time, and, mind you, it is different in different laboratories and in different parts of the country, you almost have to know what they do in a particular laboratory because they are very sensitive, delicate tests, but at this time in [1059] this laboratory, the best of what I can see here and what I recall, a 4 plus Kline or Kahn is the most positive kind of test and it means that it is positive on a very high dilution, a very thin strength of the blood, and that is also equivalent to a very high unitage in Kahn.

Q. Now, I believe it was your testimony the other day that you diagnosed neurological syphilis

(Testimony of Miles H. Robinson.)

right away in the case of Mrs. Brooks on the basis of strongly positive serological tests for syphilis. Do you find this quantitative rating which was given on this Kline test as being a strongly positive serological test for syphilis?

A. Well, now, I can tell you this: My recollection was it was strongly positive and it was on March the 9th, 1950. We have here the record, Kline 4 plus, dilution 1:32, 128 Kahn units.

Q. Aren't you looking at Mr. Brooks' test?

A. Oh, yes, I am. Hold on a minute.

Q. Well, maybe this might be the time for you to straighten these records out. You said the other day, Doctor, that you had them confused and I would like to get this clear, if I can, on what Mrs. Brooks' chart shows.

The Court: Court will recess for ten minutes.

(Whereupon, a short recess was taken.) [1060]

The Court: All right, proceed.

Q. (By Mr. Tuttle): Before we continue with that last question we were talking about, Doctor, I just wanted to ask you whether or not your records show that Dr. Smeltzer had been consulted by Mrs. Brooks at some time previously?

A. Yes, they do.

Q. And do they show what examination or tests he may have made of Mrs. Brooks and when?

A. Yes, it says Smeltzer did a spinal fluid and that refers to a test.

(Testimony of Miles H. Robinson.)

Q. Does it show what the results of that test were?      A. No.

Q. Did you ever contact Dr. Smeltzer to find out what the results of his spinal fluid test were?

A. I am not sure whether Mrs. Brooks told me the test showed nothing, or whether I called Dr. Smeltzer and he said that the test showed nothing.

Q. But, in any event, you had in mind Dr. Smeltzer's spinal fluid test had shown nothing at the time?      A. Yes.

Q. And when did he make his test?

A. Doesn't say here.

Q. Now, during the recess, have you been able to reassemble those files so that we can continue with Mrs. Brooks' [1061] serological tests for syphilis?

A. Yes, I think I have them in a little better order here.

Q. Now, if you can, I would like you to give us the dates the blood was drawn or the spinal fluid taken by puncture and the results and the dates of the results of those various tests.

A. The first test on here, the blood was taken on February the 9th, 1950, and going over these records now, I see that Mrs. Neumeier was using the Kline test at this time. Sometime she used the Kahn, sometime she used the Kline, sometime she used the Wasserman. She was using Kline tests all through. It is essentially the same as the Wasserman.

She reported back Kline 2 plus on February the 9th. The next test that was taken——

(Testimony of Miles H. Robinson.)

The Court: Reported back when?

A. Well, she did the work on February the 14th.

The Court: I thought you said she reported back February the 9th. Did I hear that wrong?

A. Yes, your Honor, I said that and it wasn't accurate.

The Court: The blood was taken on the 9th, wasn't it?

A. Yes.

The Court: When did the report come back, is your question, isn't it?

Mr. Tuttle: Yes. [1062]

A. Well, the work was done, it came back sometime after February 14, 1950, through the mail. I assume probably arrived the next day.

Q. And the result was 2 plus, did you say?

A. Kline 2 plus.

Q. Anything else evidenced? You have mentioned there were some other things that went along with the quantitative rating.

A. It says positive 2 plus and after that it says Kline 2 plus.

Q. Is there any difference between positive 2 plus and Kline 2 plus?

A. No, she is merely telling what particular one of the three tests she used in this case.

Q. A Wasserman 2 plus would be essentially the same thing, is that correct?

A. I couldn't tell you that because that is a highly specialized field in itself.

Q. Yes, okay. Now continue.

(Testimony of Miles H. Robinson.)

The Court: How did you regard it when it came in, the same as a Wasserman?

A. Yes, your Honor.

The Court: All right, go ahead.

Q. (By Mr. Tuttle): You may continue with your dates on drawing blood or spinal punctures, and the dates which [1063] you received the results back.

A. The next record here shows February 27, 1950, specimen obtained. It was examined on March 11, 1950, in the Department of Health in Seattle. The report shows, after the word "blood," it has an X, meaning it was a test on blood, and in the right-hand column, "Standard flocculation test positive." The Kline and the Kahn are the flocculation tests and whatever one they were using was positive.

Q. What is the quantitative rate?

A. It also says quantitative 1-2, and underneath that, standard complement fixation test, which is the Wasserman, and that is positive also.

Q. Does it give a quantitative rating?

A. The quantitative flocculation rating is 1 to 2, meaning that—as I say, it is a highly specialized thing, just how you conduct these tests, but they simply diluted the blood with an equal quantity of water and it was positive in that dilution.

Q. What did that mean to you, the equivalent of a Wasserman or Kline 1 to 2 plus, is that what it means?

A. Well, as I said before, the quantitative test

(Testimony of Miles H. Robinson.)

is not very reliable and one doesn't pay too much attention to whether it is a 1 plus or a 4 plus.

Q. It isn't a reliable test of syphilis, then, the blood [1064] serology?

A. I didn't say that.

The Court: He said quantitatively it isn't.

Q. (By Mr. Tuttle): But does it mean in terms of Wasserman ratings, this 1 to 2 you talk about here, I am trying to get clear in my mind what that meant. Does it mean the equivalent of 1 to 2 plus, say, on Wasserman test?

A. Oh, there may be no one in the world that can answer that question.

The Court: What question was that?

Mr. Tuttle: My question was whether or not this particular test that he is talking about now, which he said was 1-2, meaning 1 to 2, whether or not that would be, as he would read it, the equivalent of a 1 to 2 plus Wasserman rating or Kline rating?

The Court: Oh.

A. When you compare these different tests, you just can't compare them very well and it is not practical or necessary for the management of syphilis to bother with them, with that, to any great extent, this quantitative business.

Q. Well, then, if you will go ahead, Doctor, with your next tests.

A. The next one seems to be March the 24th, 1950, and it was recorded as positive 3 plus this time and the Kline [1065] was 2 plus. Now, whether she did two different tests, I don't know. Then the quantitative units is 8 Kahn units (1 to 2 dilution).

(Testimony of Miles H. Robinson.)

The next test after that is April 11, 1950, spinal fluid test. The standard complement fixation reaction was negative. Spinal fluid protein was 25 milligrams per 100 millimeters of fluid.

Q. Now, excuse me just a moment there, Doctor. Does that show the spinal fluid was normal?

A. Well—

The Court: I presume you mean so far as syphilis content is concerned?

Mr. Tuttle: Yes, I should probably add that.

A. It is normal as far as the Wasserman type of test goes. I think that protein figure is normal.

Q. And that was the first spinal test now that you made on her?

A. That was the first that I took on her, yes.

Q. All right, now, you may continue with your tests.

A. I have more on that. You see, these records are in three parts. Part of them are the tests that came back from the lab, part of them are on a slip here that I put in here—apparently, I was down at St. Mary's and wrote some notes on a slip and never incorporated it in the other record—and then I have in my personal record of her here, April 11, 1950, spinal tap, St. Mary's, cell [1066] count five cells per millimeter, protein 40 milligrams per cent.

Now, five cells per millimeter is a positive spinal fluid finding typical of syphilis. The normal number of cells should never be over two or three, and if you have even as many as five, that is a very

(Testimony of Miles H. Robinson.)

significant finding and confirmed my opinion that she had neurosyphilis.

Q. Now, that was what date?

A. On April 11, 1950.

Q. And what laboratory did that?

A. I made that count myself. It is a very touchy thing to do an accurate cell count and it has to be done promptly because the cells deteriorate, so I made that count myself and noted it at the time here.

Q. That was a result of the spinal puncture you made?

A. Yes, it is routine for me to make my own cell counts on a spinal puncture.

Q. Now, what was your next test then after that? That was April, you told us about one in May which was negative and the protein was normal, is that right?

A. No, the one I was telling you about is the sample of spinal fluid which I sent to the State Health Department on April the 11th, and so part of the record is on the slip that came back from the State Health Department and [1067] part of it is in my records which I wrote at the time here. Part of the laboratory work was done in Seattle, because I am not equipped to do a Wasserman on spinal fluid and neither is anyone in Walla Walla, but the cell count has to be done immediately and I either did it right at St. Mary's at the time or else I came back to the office and did it immediately in my office.

(Testimony of Miles H. Robinson.)

The Court: Well, your cell count didn't correspond with the laboratory tests, then, Doctor? The laboratory test was negative, wasn't it?

A. Well, your Honor, the diagnosis of syphilis in the spinal fluid is made up of several factors. One of them is the serological test of Wasserman, of Kline, or Kahn.

The Court: Does that show any spirochetes present in the fluid?

A. No, your Honor, that Wasserman type of test shows whether there are any spirochetes anywhere in the body which have caused a reaction in the body.

The Court: Oh.

A. Which can be detected by the Wasserman test. One practically never can see the spirochetes in syphilis except in a fresh case. Actually, the lesion on the skin is the only place you can find them. So the test, to be positive in syphilis—

The Court: I understood that a Wasserman and similar [1068] tests are chemical tests which do not discover bacteria directly, is that correct?

A. Yes, your Honor.

The Court: Well, go ahead. I just wanted to get things straightened out in my own mind, whether there is any discrepancy between the laboratory tests and your cell count.

A. There is an interesting finding there, but it is not really a discrepancy. The diagnosis depends upon several factors and a preponderance of those factors being positive will enable you to make the

(Testimony of Miles H. Robinson.)

diagnosis. You don't have to have all of them, you have to have some of them, and the Wasserman is only one of them. The other one is the cell count, the other one is the protein, the amount of protein in the spinal fluid, which makes three. Of all those, the Wasserman type serological test is the most important of all, but the others have collateral importance.

The Court: Well, what did this indication negative mean in the laboratory's report on the spinal fluid?

A. That referred only to the serological test, which is one of the three factors.

The Court: I see. All right, go ahead.

Q. (By Mr. Tuttle): Well, with reference to the cells, would it be possible that bleeding from the spinal needle could cause the five cells that you found? [1069]

A. No, because that bleeding involves red blood cells and these are white blood cells that you count.

Q. That is, those were only white blood cells that you were counting at the time in connection with your——

A. There were no red blood cells.

The Court: I thought blood contained both.

A. Yes, but this is spinal fluid, your Honor. We put a needle into the spinal fluid.

The Court: It is hard for me to follow this, of course, but I thought what counsel was inquiring about was whether the blood content mixed up in with the spinal fluid caused a cell count to be pres-

(Testimony of Miles H. Robinson.)

ent. Of course, if the blood got into it, it would have white cells as well as red.

A. Yes, your Honor, that is exactly the situation.

The Court: Go ahead.

Q. (By Mr. Tuttle): Continue with your next tests.

A. I counted five cells, five white blood cells, in this spinal fluid sample, which is a clear, watery material, and if there had been any contamination with the blood, there would have been a lot of red blood cells with the white blood cells there.

The Court: Yes, I see.

A. Then we had the protein tested and I can't tell you who did that, whether it was done at St. Mary's or where it was done. At the moment, I just don't recall. But it [1070] says here 40 milligrams per cent, which, as I recall, is a definite elevation of the protein.

Q. And what was that on?

A. That is on this same spinal fluid that I took at St. Mary's.

Q. In other words, that is one of your notes, that is not——

A. It is my note, but I am at a loss to say who ran that particular protein. I don't recall, and I don't find in here a lab report on it. I may have had my bacteriologist in the laboratory at that time and he ran proteins. I would have to check the records. I know I didn't, I doubt if I ran it, but I don't think so. [1071]

(Testimony of Miles H. Robinson.)

The Court: And I don't think there is any necessity for you knocking down straw men here, and if they produce evidence here that I think has probative value that any of these defendants did send the Brooks out of town and got a false diagnosis and/or circulated false reports, why, then, you may go into it, and, if it becomes proper, you might even recall the plaintiff for further cross-examination.

But I think I will make that ruling, that unless and until there is some showing on that particular issue set out in subparagraph 15 of the Roman numeral paragraph 26, that we will not go into it.

Is that clear, then?

Mr. Tuttle: That is, your Honor.

The Court: All right, go ahead.

Mr. Kimball: Your Honor, may I make a further point, [1082] however, that as I understood the Doctor's testimony, he said that he did what he did relative to the health department and the other relatives because it was necessary to his treatment of this disease of syphilis, and it seems to me it would be very material as to whether or not Mrs. Brooks had syphilis to justify the actions that the Doctor said he took. Would it not be material to that?

The Court: Well, I don't think so. As I recall his testimony, he said the reason he reported it was because he learned that Mr. Brooks had within a few years past had a test when he came in from England which showed negative, and that that was an indication to him that it might have been recent

(Testimony of Miles H. Robinson.)

and therefore, because it was recent, Mr. Brooks, that he should make the report when he did, so he included the whole family because of their having the disease and that there might possibly have been a fresh infection of the wife, I presume. So that, at any rate, I don't think that this brings this into issue as I remember the testimony.

Mr. Tuttle: I don't want to quarrel with the Court, but I think that the letter he wrote specified Mr. and Mrs. Brooks, the ones he reported, and that has been introduced by the plaintiff. I just want that clear.

The Court: Well, all right.

Q. (By Mr. Tuttle): What date was it, Doctor, that you received the letter from Mr. Fullerton, or a copy of that [1083] letter, rather, which Mr. Fullerton wrote to Mrs. Edwards concerning the dollar and a half? A. September 30, 1950.

Q. Do you recall what day of the week that was?

A. Yes, that was a Saturday.

Q. And what was your reaction to that letter when you received it?

A. I was very much surprised.

Q. What did you do then about the letter?

A. I got in touch with the Edwards family.

Q. And can you tell me when it was you got in touch with them?

A. Sometime the first part of the following week.

Q. Monday or Tuesday the following week, would you say?

(Testimony of Miles H. Robinson.)

A. Well, my recollection is it was Tuesday or Wednesday.

Q. And did you have it in mind that you wanted to get hold of this original letter when you were contacting the family?      A. No.

Q. What did you have in mind at the time?

A. I had in mind to find out what the complaint was about.

Q. And were you successful in your efforts in getting in touch with them the first of the week?

A. Yes.

Q. And where was that? [1084]

A. In the home of Mrs. Edwards.

Q. And who was present?

A. Mrs. Edwards and Mrs. Brooks are the only two that I remember. I think there may have been some children or someone else there.

Q. At that time, did you ask to see the original letter?      A. Yes.

Q. And what did they tell you at the time?

A. Said they hadn't got it yet.

Q. Did they offer any explanation as to why they hadn't gotten it yet?

A. Yes, they said something about the post office, that the post office was closed at the hour when they were around where they could get it.

Q. And that was College Place, was it not, where you saw them?      A. Yes.

Q. And the Edwards lived in College Place, did they not?

A. Well, that is so far as I know, I think that

(Testimony of Miles H. Robinson.)

was Mrs. Edwards' home. I went to so many different places where I saw the Brooks, but I think that was Mrs. Edwards' home, yes.

Q. And College Place has a separate post office, does it not?      A. I believe it does.

Q. And did they explain to you that their mail came general [1085] delivery?

A. Well, I don't recall exactly whether it was that or whether they had a box, although I think she did say they didn't get their mail at the house.

Q. Did she convey the thought to you that they didn't get their mail with regularity because the post office was usually closed by the time they got home inasmuch as they were working people?

A. All I gathered was they didn't get their mail regularly. I didn't know just why.

Q. Well, was that about the substance of your conversation on that particular evening?

A. No, I explained my action in regard to the little child as to why I had done what I did, and I asked her, well, "why did you make any complaint?" And I said, "I told you to have the child vomit and I gathered from you that the child did vomit and you were satisfied. The child is well, why did you make any complaint about it?"

Q. Did she reply to that?

A. I really can't tell you what she said to that. My recollection is that she said something about a prescription and she kind of laughed about it, and Mrs. Brooks was—well, they were both very con-

(Testimony of Miles H. Robinson.)

ciliatory about the whole thing and no more was really said about the complaint. [1086]

Q. Well, then, did you contact the Edwards family again after this conciliatory conversation that you had the first of the week?

A. Well, we talked a little further about it and I said, "Well, I would like to see what that letter is." And she said, "Well, I have no objection, I will be glad to let you see it when we get it."

And then the next thing that happened was Mrs. Brooks——

Q. Excuse me just a moment. Did you tell her that you received a copy of the letter?

A. Well, I think I must have because otherwise I wouldn't know anything about the letter.

Q. Yes. All right.

A. Mrs. Brooks then got out her pocketbook and said, "Doctor, I would like to pay my bill." And she offered me, and the records show \$13.00 which I took. And then I said to her, "How about this old problem about your husband? You know that he has refused treatment, refused tests, and I think you should have him come in," which was a subject I raised with her at regular intervals, I would say every two or three times I would see her I would ask her about this problem. And she said, "Well, I will do what I can, but he is pretty stubborn."

Well, that is all that we talked about at that time. [1087]

Q. Then when did you next contact the Edwards?

(Testimony of Miles H. Robinson.)

The Court: Let's see, who was present at this conversation?

A. Mrs. Brooks and Mrs. Edwards are the only people that I recall.

The Court: All right.

A. Well, the week went by and I didn't get a chance to contact the family until the end of the week. I had a lot of very sick people in the hospital and somewhere, I think it was Friday or Saturday, I finally reached Mr. Edwards and my conversation with him was practically identical with what it was with the two ladies. I asked him about the—I told him, I said, about this complaint and explained to him that what I had done, and I felt I had done right, and I was quite concerned that he had gone, or he and his wife or whoever it was—I guess it was his wife actually made the complaint, a complaint to the medical society about this thing, without ever talking to me, and I went over what I had done for the child, and, as far as I recall, he agreed that there had been nothing, that he had no complaint about the child. He accepted my explanation and that he had no complaint.

Well, then I reminded him, I said, "This thing is a very serious precedent in the society, telling patients [1088] not to pay bills," and I said to him, "Your wife said she would let me see this letter that was sent out." And I don't know whether I told him at the time or not that I wondered just whether the letter that was sent out was the same as the letter I had got or what.

(Testimony of Miles H. Robinson.)

And he said, "Well," he said, "I haven't got the letter yet."

Well, I was a little astonished, because here it had been nearly a week and I thought, well, that is sort of an evasive kind of thing to say. I couldn't conceive of anybody not getting their mail, I mean, any oftener than a week, and I think probably the way he said it kind of aroused my suspicions that there was more behind this than I realized.

Q. (By Mr. Tuttle): Just the way in which he said it, was that what aroused your suspicion?

A. Well, I can't tell you at this moment, but it was the fact that he hadn't got his mail and here was a letter which had prompted me to make a call on a family and inquire about this complaint. I told his wife that it was an unusual thing, that I had never heard of a letter being sent, an official letter being sent, from the society to tell patients not to pay bills, and I felt quite definitely that anybody with a grain of curiosity would stop by the post office and pick up this letter [1089] that a doctor had inquired about. Therefore, I felt that he was evasive and I think his tone contributed to it.

Well, then, I said to him, I said, "Now, you know I have had my problems with the family. Mrs. Brooks is a difficult problem from the standpoint of a lot of long treatment, and your father-in-law, he has got a serious condition, too, and you should have him come in."

Q. Did you tell him that on Saturday, you say?

A. I told all the members of the Edwards family

(Testimony of Miles H. Robinson.)

that I thought that the father should come in. I told them when I saw them in College Place and I am quite confident I told him over the telephone or whenever it was I saw him.

Q. Well, was it possible that you didn't tell him on that Saturday that his father-in-law was suffering from a serious condition?

A. Well, I don't think so, because my attitude to all members of the family was the same. I was concerned about the complaint and I was concerned about the old gentleman taking a risk with his health and putting me in a position where I had to carry the responsibility as to whether anything was going to go wrong with him.

So he said, "Well, I will do what I can and when I get the letter, I will let you see it." Well, [1090] that probably was on a Friday, I think it probably was on a Friday, and that was the extent of my conversation with Edwards up to that time.

The Court: Court will recess now until 2 o'clock.

(Whereupon the trial in the instant cause was recessed until 2 o'clock p.m., this date.) [1091]

Thursday, March 22, 1956—2 o'Clock P.M.

(The trial in the instant cause was resumed pursuant to the noon recess, all parties being present as before, and the following proceedings were had, to wit:)

MILES H. ROBINSON

plaintiff herein, having been previously duly sworn, resumed the stand and testified further as follows.

Cross-Examination  
(Continued)

By Mr. Tuttle:

Q. Dr. Robinson, on the 7th of October, which was Saturday, 1950, did you call Mr. Brooks asking him for the letter, the original of the dollar and a half letter? A. I called Mr. Brooks.

Q. And in that conversation, did you ask him to get you the original letter? A. No.

Q. In what conversation did you ask him for the original letter?

A. I never asked him for the original letter or any letter.

Q. Did you ever ask him to get it for you and bring it in with him when he came in? [1092]

A. I never asked him to get it. I said that, "If I am going to take care of you, I would like to have this business cleared up about the complaint and about this letter that was sent out, and one of the conditions of my taking care of you, a condition of my taking care of you, is I would like to see that letter which your daughter said she was going to show me."

Q. And what was your desire to see that letter?

A. Well, as I mentioned previously, it was a very peculiar letter and I wondered just whether the letter that Mr. Fullerton had sent out was the same as the letter that I had got, and I think it was

(Testimony of Miles H. Robinson.)

merely curiosity, to begin with, but it really became an issue as to whether I would take care of the family while this letter was floating around.

Q. Did you have in mind upon receipt of this copy of the letter from Mr. Fullerton that you might bring a lawsuit against somebody?

A. I certainly had nothing in mind of that sort.

Q. Doctor, I am quoting from the deposition which was taken last September in the Chicago suit against the AMA. On page 37, question by Mr. Wilden:

“Q. Did you contemplate litigation at that time, Doctor?

“A. I contemplated litigation as soon as [1093] that secret grievance committee wrote that official letter to my patient and told them not to pay my bill for a dollar and a half.

“Q. Did you contemplate litigation at that time against the AMA?

“A. I couldn't tell you who I contemplated it against. I merely felt that the local society was setting a precedent and that next week it could be \$150 or \$1,500 and they would write that patient of mine and say don't pay his bill, and I thought it looked to me as if that was going to have to come before the citizens in the town in a court of law.”

Do you now say you didn't make such a statement as that?

A. No, I recall that statement. I have thought about that matter and, looking back at it, I only knew that I contemplated suing some responsible

(Testimony of Miles H. Robinson.)

people fairly early in the game. As far as I know, the idea of a suit occurred to me after the annual meeting of December 14, 1950, which was about that general time.

Now, when the letter was sent out, I did feel that the matter should come before the society, but [1094] I had no idea of a lawsuit at that time, as early as when the letter was sent out, and what I said there, I was looking backward and I felt that it was very early in the game that I had the idea of the lawsuit.

Q. Well, in view of that statement, isn't it possible, Doctor, that that was why you had such an unusual interest in seeing the original of this copy, that you wanted to obtain it for litigation?

A. No, I don't think so. The letter to me was a precedent. Such a letter had never been sent out to any doctor before and I, in all the years that I had been connected with medicine, have never heard of anybody sending a letter out to a patient without the doctor having a chance to talk it over with the patient. In fact, I never heard of any such letter being sent out.

Q. Well, is that your reason, then, for wanting to see it, why you desired to see the letter, simply because it was unprecedented?

A. Well, as I say, the letter really became an issue. Originally, it was a matter of curiosity, I think, and I am methodical by nature and I really wondered what the letter was. The family offered to show it to me, and then when a week went by and they were telling me this extraordinary story

(Testimony of Miles H. Robinson.)

that they don't go to the post office for a solid week and the attitude of Mr. Edwards [1095] and of Mr. Brooks both about the complaint in the letter, I felt that there was something very peculiar afoot.

Q. I thought you told me that Mrs. Edwards' attitude had been very conciliatory when you had talked with her?

A. Conciliatory about their complaint, but deceptive and evasive about this letter.

Q. What was deceptive and evasive in what they told you? They told you, didn't they, about the fact they didn't get their mail except at irregular intervals because they got home too late to get their mail in the post office?

A. Well, on Friday, I think it was Friday, which was the first time I talked to Mr. Edwards—I had already talked, you see, a couple of days earlier with Mrs. Edwards about the complaint and the matter of the letter came up really in a very casual way and they had said, "Well, we will be glad to show you the letter when it comes in"—well, then, I talked to Edwards on Friday about this complaint and, of course, the letter came up in our conversation and here it was Friday, six days after the letter had been mailed, because I had got a copy of it on Saturday, the previous Saturday, and he said, well, he hadn't got that letter yet. And I thought, in the first place, that doesn't sound right, [1096] and, in the second place, the way he said it was if he was kind of dealing with a detective mystery or something. And I knew very well that anybody with

(Testimony of Miles H. Robinson.)

normal curiosity would have marched right down to the post office and got the letter, and I mean, after all, I had paid a call on them about the complaint and the letter had come up and it would be perfectly natural to go down there and look into the matter.

So when he told me that he hadn't been to the post office yet, and the way he said it, I felt that he was very evasive.

Q. Well, then, upon reaching the conclusion that he was evasive and there was something very mysterious going on here, what did you conclude to do then?

A. Well, we had raised earlier in the week the question of Mr. Brooks' health and the family had said they would see what they could do to get that problem settled. After all, I had not had very much to do with the family——

The Court: I think the question was what he did next.

Mr. Tuttle: That's right, your Honor.

The Court: Answer the questions not quite so lengthily and I think we might proceed a little more rapidly.

This was all gone over before, of course.

Q. (By Mr. Tuttle): What did you do next, Doctor? [1097]

A. I called Mr. Brooks on a Saturday.

Q. And by that time, were you angered by the situation?

(Testimony of Miles H. Robinson.)

A. No, not at all. I was puzzled and concerned, but I wasn't angry.

Q. Did anything occur in the conversation on Saturday with Mr. Brooks which angered you?

A. Well, he said something which annoyed me, yes.

Q. What was that?

A. He said, "I have another daughter who lives in Spokane now and she was treated by a doctor and, after a considerable length of time, the doctor told her, 'I believe I have made a mistake in my diagnosis.'" And Brooks, Tom Brooks, said to me, "I told her not to pay the bill, too."

And that immediately in a way connected it up, made it clear to me that he knew about this complaint that his daughter had made and I got the impression that he had instigated it, and I felt that was a very unfair thing for him to have done in view of all that I had done for his family.

Q. And you got that impression then he had instigated the complaint by Mrs. Edwards against you? A. Yes.

Q. Because he had talked about the daughter in Spokane, is that right? [1098]

A. Well, it was partly from that and partly when I discussed the complaint with him, his whole attitude was patronizing and he just exhibited familiarity with the matter.

Q. Well, then, what did you do next after the Saturday conversation with Mr. Brooks?

A. I telephoned him on Sunday morning.

(Testimony of Miles H. Robinson.)

Q. And were you still annoyed and angry at the time?      A. I didn't say I was angry.

Q. I thought you said you were angered by the fact that you suspected that he had induced his daughter to make a complaint against you?

A. Well, I was annoyed by it, but I don't think it would be fair to say——

The Court: He said annoyed, rather than angry.

Mr. Tuttle: Oh, I'm sorry.

Q. Well, then, were you annoyed when you called him up on Sunday morning?

A. If you are asking for my general feeling, I was highly concerned.

Q. All right. And what did you do on Sunday morning when you talked to him?

A. Well, you see, Friday night the last thing that Tom Brooks said to me was, he said in connection with my asking him if he couldn't come in and get this question [1099] settled about his treatment and proper diagnosis, further diagnosis.

And he said, "Well, I don't even believe I have got it." [1100]

And he said, "Why, when I came in this country from England, I had a negative Wasserman."

Well, that altered the entire picture of the problem about him, because if he had a negative Wasserman two and a small number of months or whatever it was——

The Court: In any event, it was recent?

A. Yes, your Honor.

(Testimony of Miles H. Robinson.)

The Court: You testified before the same as you did on direct?

A. Yes, sir.

The Court: All right, proceed. I don't see any point in going over this so many times.

Q. (By Mr. Tuttle): Well, then, did you discuss the letter again, about bringing the letter in again, on the Sunday morning conversation?

A. The letter came up in the conversation, yes.

Q. And did you make that a condition of continuing your relationship with Mr. Brooks and the rest of the family, that he bring that letter in?

A. Well, I think that that is generally speaking a fair statement as far as Mr. Brooks is concerned. I told him, "The situation is really urgent with regard to your health, much more than I had appreciated, and from the standpoint of the family and the people that are exposed to you, and," I said, "I am willing to take care of you, [1101] but I expect our relationship to be on a frank and open basis and one of the things that has come up is this matter of the letter, and if you are going to come in, I expect you to bring the letter with you."

Q. And did you at the same time make it clear to him that if he didn't come in and didn't bring the letter, that you were going to terminate your relationship with him?

A. I made it clear to him that if I was not going to be responsible for him, I would turn him over to the health department.

(Testimony of Miles H. Robinson.)

Q. And did you say anything about revealing it to other members of his family?

A. At some time or other on Friday or Saturday, or, let's see, I didn't talk to him on Friday—on Saturday or Sunday, in explaining to him the seriousness of his disease, I said to him that "I think that your family ought to know of this situation."

Q. Well, then, what would Mr. Brooks have had to do in order to prevent you from reporting his condition to the members of his family and to the health authorities?

A. Well, I never said that "I am going to report this to your family," because, while I felt it was probably my duty to do that, I felt that since I was going to turn him over to the health department—

Q. Just a minute—— [1102]

The Court: Can't you answer what you did and what was said and not your reactions, unless they are asked for, please, Doctor? This is taking a great deal of time, unnecessarily, I think. Go ahead.

Q. (By Mr. Tuttle): I just asked you what Mr. Brooks would have had to do in order to prevent your reporting it to the health officer?

A. Oh, I thought your question included two things. Well, in answer to that question, he would have to come in and submit to adequate tests and take whatever treatment was indicated.

Q. And about the letter?

A. The letter was not a major issue. That is——

Q. You say it was not a major issue?

A. That is something which he seized upon.

(Testimony of Miles H. Robinson.)

Q. I am referring now to your deposition in this case, Doctor, at page 270, line 18:

“Q. Let me ask the question this way, and I will waive the former question. What would Mr. Brooks have had to do to prevent you from reporting his condition to other members of his family and the health authorities? Do you object to that?”

“Mr. McNichols: No.

“A. Come into the office. [1103]

“Q. That is all?”

“A. Well, I made it a condition I wasn't interested in having these people come in unless they brought the letter with them. They made the letter a big issue, not I. This mysterious letter floating around that nobody knew where it was and they hadn't received it a week later, so I naturally made that a condition because by that time they were, I thought, pretty deceitful about the whole thing and I was willing to work out what I could with them, but I wanted them to come clean on this letter.”

Now, would you say you made it a condition of continuing your relationship with the family that they bring the letter in to you?

A. I believe that by that time it had become a condition of my continuing a relationship with them.

Q. Did you say this that I have just read?

A. It sounds like what I said, sounds like what I have just said this morning.

Q. Well, would you say that these statements were made to Mr. Brooks in anger and malice at that time?

(Testimony of Miles H. Robinson.)

A. Why, no, I was very anxious and I tried to reason with him.

Q. Did you ever discuss this matter with Mrs. Brooks, who [1104] was your patient that had been receiving treatment over a period of five or six months?

A. Why, certainly I discussed it with her every few times that I saw her, "What are we going to do about your husband?"

Q. I am asking if you discussed the matter of bringing in the letter, which conditioned your continuing treatment, with Mrs. Brooks?

A. Well, no.

Q. Did you ever tell Mrs. Brooks that unless the letter were produced, that you were going to discontinue your relationship with her and reveal her disease to the health authorities?

A. I never told that to anybody.

Q. You never told that to anybody, you say?

A. Why, no.

Q. Didn't you tell Mr. Brooks that you were going to reveal his disease if he didn't bring in the letter so that you could continue your relationship with him?

A. Not the way you are putting it.

Q. Well, in any event, you never discussed it, did you, with Mrs. Brooks about the matter of revealing the disease to the health authorities?

A. Why, no.

Q. Or other members of the family. Did you ever at any time [1105] offer Mr. or Mrs. Brooks

(Testimony of Miles H. Robinson.)

the opportunity of placing themselves under the care of another physician with whom happier relations could be maintained?      A. Yes.

Q. Did you offer them the opportunity to go to another doctor and have him assume responsibility for managing their disease?      A. Yes.

Q. You have never told us that before. When did you tell them that?

A. I don't believe you have ever asked me that.

Q. When did you tell them that?

A. I think my records may show that. I can tell you the circumstances, roughly the time.

When we decided upon a lengthy course of penicillin for Mrs. Brooks, we embarked upon it and, of course, it was somewhat expensive. Then I arranged for the daughter to give the medicine in the home herself so as to save them money. Well, it was fifty cents instead of four dollars an injection and, even so, the treatment ran on quite a while and

Mr. Brooks was a little testy that the bills—and I said to him at that time, “I will be perfectly happy for you to go down to Portland”——

The Court: I don't believe that is what counsel's question was. It is after this trouble came up about the [1106] letter, did you give them an opportunity to go to another physician before you turned them over to the health department?

Isn't that your question?

Mr. Tuttle: That was my question.

The Court: Not way back before the letter. That is something he didn't ask about.

(Testimony of Miles H. Robinson.)

A. I'm sorry.

The Court: Now ask him the question again or the reporter will read it. Let's have answers to the questions, please, and not this long, rambling dissertation about something that wasn't inquired into.

(The question was read.)

The Court: I assume what you referred to was not the past required treatment, but after the letter controversy came up?

Mr. Tuttle: Yes, from the time the letter controversy came up with Mr. Brooks.

A. Oh, no, at that time I did not.

Mr. Tuttle: Number 21, please.

The Court: Exhibit 21?

Mr. Tuttle: Yes, I believe it is in evidence, isn't it, your Honor?

The Court: Yes, it is in evidence.

Q. (By Mr. Tuttle): Well, I will ask you, Doctor, while we [1107] are looking for this exhibit, if you didn't phone Mr. Edwards on Monday morning and tell him that unless he brought the letter in and this matter was patched up, that you were going to reveal the disease of your mother-in-law and father-in-law to the county health officer? A. No.

Q. You did not? A. I did not.

The Court: What day was that, Mr. Tuttle?

Mr. Tuttle: That would have been Monday, October the 9th, your Honor.

Q. You had a conversation with him, did you not? A. Yes, I did.

(Testimony of Miles H. Robinson.)

Q. But you did not make any statement to that effect?

A. Maybe you'd better ask that question again. I didn't hear it too well.

Q. Well, I will ask you first if you had a conversation?

Mr. Sembower: May we have the original question read, please?

(The question was read.)

A. No.

Q. (By Mr. Tuttle): What did you say to him on Monday morning?

A. I said, "I talked to your father-in-law yesterday and I told him that I am through with the case and I just [1108] wanted to let you know that I am going to have to turn them over to the health department."

Q. Didn't you say something at that time about taking him back into the happy family or patching the matter up, something to that effect?

A. Well, I seem to recall that expression, the "happy family." It may be, I am not exactly certain of the subject of what I said to him there, except that it was on the matter of I could not work out anything with Mr. Brooks and it may be that I told him that, "It looks like we can't work anything out and that I will have to turn them over." I am not entirely clear on that particular point because immediately he more or less cut me off.

Q. What did you say about the condition of his

(Testimony of Miles H. Robinson.)

mother-in-law and father-in-law at that time to Mr. Edwards?

A. I have never said anything to Mr. Edwards except that Mr. Brooks, his father-in-law, had a serious condition which should be treated.

Q. Why were you talking about the health authorities, then, Doctor?

A. Well, if I didn't treat it, they would have to.

Q. Did you ever tell Mr. Edwards that unless he brought the letter in to you, that you were going to be through with the family, wouldn't treat them any longer?

A. I never told them any such thing as that, but the letter [1109] became a condition of whether I would go on with the family, that is true.

Q. Well, I am going to refresh your recollection from page 302 of the Chicago deposition of you, Doctor:

“Q. You say Mr. Edwards didn't come in to see you, is that correct? A. That is right.

“Q. Did you ever call him again during this period of time?

“A. Well, I called him or he called me again, I know that.

“Q. Well, what was said by you and what was said by him?

“A. And I asked him when is he going to come in. And he said ‘Well, I don't know.’ And then we talked about the letter. I don't know just how it came up. And he said, ‘Well, I haven't got the letter yet,’ and this was four, five or six days after

(Testimony of Miles H. Robinson.)

it had been mailed, that I knew it had been mailed, because Fullerton gave me a copy of the letter and so I knew right away he was lying and I didn't like that. I thought, this is getting thicker and thicker. So I said, 'Well, unless you come in and unless you bring the letter in as evidence of good faith, I am [1110] through with all you people.' "

Do you remember making such remarks as that to Mr. Edwards?

A. Well, I had talked to both Mr. Edwards and Mr. Brooks to the effect that I couldn't bear—

Q. Just answer my question. I asked you if you said that, Doctor?

A. Well, I don't believe that reflects—

The Court: Your question isn't clear to me, Mr. Tuttle. I doubt if it is to the witness. Do you mean did he so testify, or did he actually so say over the telephone?

Mr. Tuttle: Did you so testify in your Chicago deposition?

A. Well, I assume so. I haven't read that.

Q. If you did so testify, was that testimony correct, did you have such a conversation with Mr. Edwards?

A. Well, I think that is rather an abbreviated version of it and really doesn't carry an accurate picture of the situation.

Q. Well, then, I am quoting the last paragraph of Plaintiff's Exhibit 21, Doctor, which is a letter from you to Dr. Sharp dated October the 12th, 1950, in which you say this:

(Testimony of Miles H. Robinson.)

“Dear Dr. Sharp:

“The name and address of the Brooks’ [1111] daughter which I was unable to give you yesterday is: Mrs. William Lepiane, 507 North Third Street, Walla Walla, Wash.”

How did you give him the information? Was that oral information on the day before that you had given Dr. Sharp?

A. Yes, I telephoned him.

Q. And this letter is to provide information which you didn’t have available for your oral conversation, is that right?

A. It is to provide information he asked for.

Q. Then you continue:

“You have, I believe, the other daughter, Mrs. Noel Edwards, 225 Southeast 6th, College Place, Washington, and the Brooks’ new address, 215 North Madison, Walla Walla.”

Now you say:

“I am certainly glad to turn these people over to you; for as I mentioned yesterday, from the way Mr. Brooks has been acting lately and Mr. Edwards’ false statement the other day that they all knew from the first about the Brooks’ parents having syphilis, I have no faith in anything they say. For all I know, Mr. Brooks’ strongly positive Kahn may be a reinfection and [1112] he may be infectious.”

Did you mean that, “I am certainly glad to turn these people over to you”?

A. What I meant was this, that Brooks was a

(Testimony of Miles H. Robinson.)

very considerable worry to me and I was very glad to get out from under that worry.

Q. You didn't mean that you were glad to provide them with these names and give this information out of malice because of the way you felt they treated you?

A. Well, no, that is my duty to give him the names of contacts.

Q. And you don't think that that statement which I just read imports that at all?

A. I don't understand your question.

Q. Now, Doctor, some time after these troubles with the medical society started, I believe you have stated some place along the line that you had some difficulty with the post office over a return receipt?

A. Yes, I did.

Q. And do you relate that difficulty to the operation of the alleged conspiracy in any way?

Mr. Sembower: Your Honor, I object to that. There is nothing on direct testimony about the matter of the post office. I don't see what materiality that has to this cause of action, unless counsel suggests some for the purpose of [1113] this question.

Mr. Tuttle: Well, we have discussed the operation of this conspiracy, your Honor. I think it is pertinent cross-examination to determine from this witness the way and the manner in which he thinks this conspiracy operated.

The Court: Well, I will overrule the objection, yes. Do you understand the question, Doctor?

A. I wonder if it could be repeated?

(Testimony of Miles H. Robinson.)

The Court: Do you relate the post office incident in any way to the conspiracy?

A. That word "in any way"—

Q. (By Mr. Tuttle): Well, I will take "in any way" out. Do you relate it to the operation of the conspiracy?

Mr. Sembower: Your Honor—

A. Oh, I would say no.

Mr. Sembower: May we have some questions that indicate what counsel has in mind? I mean, the post office incident—

The Court: Well, yes, I think you should say when it was.

Mr. Sembower: And what it involved.

The Court: And what it was, yes.

Q. (By Mr. Tuttle): Tell us what the incident was, then, Doctor.

Mr. Sembower: If he recalls. [1114]

A. I wrote this letter that you have referred to—I think it is dated October 12, 1950—to Dr. Sharp to turn over these people for his care and I sent it registered mail because I—well, if I am allowed to say so, because I was afraid that I would be held responsible if I could not prove that I had discharged my duty on the Brooks, so I sent it registered mail with a return receipt and the return receipt never came back.

Q. (By Mr. Tuttle): And did you then make a complaint about that to the postal authorities in Seattle?

A. Eventually I did.

Q. And have you not related that to the con-

(Testimony of Miles H. Robinson.)

spiracy, thinking the conspiracy operated in such a way as to cause this trouble for you?

A. Well, I was advised by my counsel not to clear anybody when I didn't know what they may or may not have done, but I can only tell you what happened. I don't know how the conspiracy operated.

Q. Well, did you tell us that there was a relationship between the postmaster here in Walla Walla and the attorney who represented the St. Mary's Hospital which you felt related this to the operation of the conspiracy?

A. Well, I think I said that one was a relative of the other in answer to some question or other.

Q. And on that basis, did you not relate it to the [1115] conspiracy?

A. As I recall it, an awfully broad question was put to me as to whether I thought this incident had anything to do with my difficulties and, obviously, it did. I couldn't get this return receipt back.

Q. And that was the only thing, just your inability to get the return receipt, that had anything to do with your difficulties?

A. That is the only thing that bothered me.

Q. Well, you offered us this description of the relationship of the postmaster here in Walla Walla to Mr. Thompson, the St. Mary's Hospital attorney—

Mr. Sembower: Well, your Honor, he says he offered it. How does he mean he offered it? It may have been elicited.

(Testimony of Miles H. Robinson.)

The Court: I think the question is objectionable in that form. I will sustain the objection.

Q. (By Mr. Tuttle): Now, in your state suit here in Walla Walla, Judge Simpson was sitting on that case, was he not? A. Yes.

Q. And you dismissed your case voluntarily before you ever got at issue, did you not, at the time?

A. Well, the legal wording, I don't know. I left town and I stopped that case without any prejudice one way or the other.

Q. And did you feel at the time that you were getting unfair [1116] treatment from Judge Simpson?

The Court: I don't think we should go into that.

Mr. McNichols: I think that is just an effort, your Honor, to raise prejudice in this case.

The Court: I beg pardon?

Mr. McNichols: I think counsel is attempting to raise prejudice in this case and I object to that inference.

The Court: There isn't indication of that to me so far, but I just don't think we should go into the state case. We have enough trouble with this one.

Q. (By Mr. Tuttle): Well, did you tell us in any way that that was connected with the conspiracy, Doctor?

A. Well, no, it is the same as the post office. I was being asked every conceivable thing that had happened to me and I think the matter of that case came up.

(Testimony of Miles H. Robinson.)

Q. So that neither of those two incidents related to the operation of this conspiracy in any way?

A. Well, I really don't know what is related to the conspiracy.

Q. But you haven't any evidence that there was any relationship, have you? A. Why, no.

Q. And you told us of difficulties with the telephone company?

A. I may have, I guess I did. [1117]

Q. And do you relate that in any way to the operation of this conspiracy?

A. Well, it is the same situation as the two things we have just been discussing. I had my problems with the telephone company and I know what happened, and I was asked a very broad question as to whether I thought it could possibly have anything to do with this conspiracy and I said, "Well, I am not going to say it does not have anything to do with it."

Q. About the newspaper publicity, you were displeased about some of the newspaper publicity involving this case and also some of your family situation, were you not?

Mr. Sembower: Your Honor, I object to those as not being related to this matter.

The Court: I think that is going too far afield. Sustain the objection.

Q. (By Mr. Tuttle): Then your son was involved in some juvenile difficulties?

Mr. Sembower: Your Honor, I object to that strenuously. I think that has nothing to do with it.

(Testimony of Miles H. Robinson.)

The Court: Yes, I will sustain the objection to that.

Q. (By Mr. Kimball): Dr. Robinson, if you don't hear me from this position let me know and I will try to make myself audible. I know the conditions are bad. I believe you introduced [1118] here what you said were case records that pertained to the Brooks and the Edwards family, is that correct?

A. Yes.

Mr. Kimball: Could I have those? I think they are 269 and 270. I don't see them here.

Q. Doctor, I hand you what has been introduced here, I believe, or identified at least, as 269, 270, 271 through 276.

The Court: They have been admitted in evidence.

Mr. Kimball: Thank you.

The Clerk: Yes.

Q. (By Mr. Kimball): Doctor, I notice on one of these, being number 276, that it is labeled Mrs. Mike Lepiane. I will show you this and ask you what connection that party has with the Brooks family?

A. Well, to the best of my recollection, this is a child—let's see, wait a minute. Well, this may have no relationship to this controversy. You see, there was a Bill Lepiane and I guess I picked another folder here which probably—I am not too clear on the relationship of all these people, but I don't—let's see, I suppose this might be the sister-in-law of Bill Lepiane. Probably got in here because

(Testimony of Miles H. Robinson.)

I was trying to get all the records of all the relations together.

Q. Will you quickly go through the rest of these files and [1119] tell me if there are any others there that are not members of the immediate family of Brooks or Edwards?

A. Would you mind defining "immediate family" for me?

Q. Well, what you considered the immediate family, Doctor.

A. Well, I don't generally use that term.

Q. Well, for what purpose were these introduced, then?

Mr. Sembower: Well, your Honor, the purpose of introduction, the testimony speaks for itself. We have put in a few of his case folders which we thought might be pertinent and we have here a whole trunkful of the rest of them that we didn't clutter up this record with at all. I don't see how the witness knows what they were offered for.

The Court: Well, that isn't a proper question, what they were offered for. I think counsel offered them here and they were admitted without objection.

Mr. Kimball: I don't want to get on a side issue, your Honor. My point is to ascertain whether these were immediate members of the family which he has testified about.

The Court: Are the Lepianes related to the Edwards or the Brooks in any way?

(Testimony of Miles H. Robinson.)

Mr. Sembower: They are. Your Honor, I may have picked up a stray folder. I hate for the witness to be charged with handing a stray folder in.

The Court: I notice you have introduced in evidence four Lepiane files. There must have been some reason for that. [1120]

Mr. Sembower: There may have been. The Lepianes are in-laws, and you will recall the baby sitter with the child was Mrs. Lepiane.

The Court: Oh.

Mr. Sembower: Who is the sister of Mrs. Edwards, and that was over at the Brooks home, so I may have picked up that because I wanted to expedite matters and have every folder identified and ready to go.

The Court: They are related in some way, in what way you just don't know, Doctor, is that the situation, to the Edwards and the Brooks?

A. Yes, your Honor, I am confident they are related.

The Court: I see. But you don't just know what the relationship is? A. No, I don't.

Q. (By Mr. Kimball): Doctor, you are not maintaining, then, that all the files here pertain to closely related families? By closely related, I mean living in a common household or something of that nature?

A. You mean am I maintaining that all these people lived in the same house?

(Testimony of Miles H. Robinson.)

Q. Yes, I am asking if you are maintaining that?

A. Well, I know they don't live in the same house.

Q. That is the only answer I want, thank you.

And from your knowledge of the family, Doctor, would [1121] you be able to say whether or not they all maintained separate households? And by that I will be more specific, did Mr. and Mrs. Brooks have their own house and live in it?

A. Well, I don't know whether it was their own house or not.

Q. Well, did they have a home of their own?

The Court: Separate establishment where they lived?

Mr. Kimball: Yes, your Honor.

A. Well, that has been a confusing thing to me. They lived in about five different homes over the years about around this time and I was never just too clear who lived where.

Q. Well, Doctor, did you know whether anyone else lived with them?

A. Well yes, the other members of the family did live with them.

Q. What other members of the family lived with them, with the Brooks?

A. I was never too clear about that.

Q. Did you know that any other member of the family lived with the Brooks?

A. Well, yes, one of the—by the other families,

(Testimony of Miles H. Robinson.)  
you mean someone with a different name like the Edwards living with the Brooks? [1122]

Q. Yes, children of theirs?

A. Well, all I know is that I would quite often find Mrs. Edwards in the Brooks' house or find the Brooks in the Edwards' house and I really didn't distinguish too well beyond that.

Q. Did you know whether or not Mr. and Mrs. Noel Edwards had their own separate home from the Brooks?

A. Well, yes, they had a separate home, but I thought you asked where they lived, or I mean where they stayed.

Q. Did you know whether or not Mr. and Mrs. Lepiane, William Lepiane, had a separate home of their own, separate from the Brooks'?

A. Well, I believe they did.

Q. How about Mr. and Mrs. Emerson?

A. May I explain?

Q Surely.

A. That last answer. The first time that I saw the Lepianes, I came to look after a child and, I think, the mother, and when I got there Mrs. Brooks and/or Mrs. Edwards was there and I wasn't too sure whether they were temporarily staying there or not. There was a great deal of temporary living of one family in the other family's house.

Q. Do you mean by temporary living, visiting or actually living in the common household? [1123]

A. Well, I really couldn't tell.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Dr. Robinson, I refer you now to the date of about June the 6th, 1950. Did you get a telephone communication on that date from someone regarding Noline Edwards, the Edwards' baby, the daughter of Mr. and Mrs. Noel Edwards?

A. Well, I would have to look at the records and, if I may say, we found a ledger sheet, I think, on the Edwards which has not been introduced and I would appreciate it—

Q. Can you answer my question first, Doctor?

A. Well, I can't answer it without the records.

Q. All right, that is your answer. [1124]

The Court: What records do you wish? Do you wish him to look at the records?

Mr. Kimball: Any records here, I am perfectly glad to have him look at them.

The Court: What records do you wish?

A. Well, the case records on the family.

The Court: Do you know what number that was?

Mr. Rosling: It has not been introduced.

Mr. Kimball: There are the case records and the day sheets and his ledgers have been introduced.

The Court: All right, if you can get them from your counsel, whatever you need, look at them and give us the date.

Q. (By Mr. Kimball): Doctor, are these the records you refer to that you would like to refer to?

A. Yes, and could I tell my counsel this?

(Testimony of Miles H. Robinson.)

Mr. Sembower: Yes, where is it located, Dr. Robinson?

A. Well, it is in that—remember, you set aside that with the yellow paper around it that we were going to try to put in some time? It has some of those, a ledger sheet of Edwards.

Mr. Sembower: You mean just one of these large sheets here?

A. One of the small ones there.

Mr. Sembower: One of the small ones [1125] there.

Q. (By Mr. Kimball): While you are looking for that, Doctor, I will hand you Plaintiff's Exhibit 303 and ask you to see if you can find a day sheet there for the day June 6, 1950?

The Court: June 6, is that, 1950?

Mr. Kimball: Yes.

A. Yes.

Q. Will you examine that, please, and from your examination see if your recollection is refreshed as to the telephone conversation? A. With whom?

Q. With anyone regarding the Noline Edwards baby? A. I don't find any on that date.

Q. Would you glance a day or two both sides and see if you can find such a memorandum?

Mr. McNichols: Might I ask a question, your Honor, of counsel?

The Court: Yes.

Mr. McNichols: Are you just trying to establish the date, Mr. Kimball?

Mr. Kimball: I wasn't trying to establish the

(Testimony of Miles H. Robinson.)

date; I asked if he had a telephone conversation. I wanted to see if it reflects in his records.

Mr. McNichols: Oh, I see. I see your point. Well, that is fine. [1126]

A. Yes, but it is not on June the 6th, it is on June 9th.

Q. (By Mr. Kimball): June 9th. What is shown, Doctor?

A. It says here, "Mr. Noel Edwards' baby No-line, poisoning, RX," which means treatment, "\$1.50."

Q. Now, with that refreshing of your recollection, do you remember whether or not you had a telephone conversation regarding the child?

A. Well, it is five years ago, but I probably—well, I remember I had several telephone conversations about this time about that baby.

Q. That is all I am trying to get out, Doctor. You do remember the telephone conversations. Who were they with?

A. I couldn't tell you as far as to just which woman member of the family it was.

Q. Do you think it was the mother?

A. Well, do you mean do I think it was now or did I think it was then?

Q. Now?

A. I don't really know, but I think that they have testified it was some aunt of the child.

Q. Did you have more than one telephone conversation on June the 9th, or whatever that is, pertaining to that baby?

(Testimony of Miles H. Robinson.)

A I had either one or two and I—yes. [1127]

Q. Doctor, while we are on that subject, did you make an entry of that charge for that service?

A. Well, yes, it is right here in my handwriting.

Q. I mean in your ledger, would that be reflected on your ledger?

A. Well, that is what I was mentioning to Mr. Sembower.

Mr. Sembower: I have some miscellaneous sheets.

A. One of these.

Mr. Sembower: Which we had in a packet of things that we had overlooked introducing in evidence. We didn't put them in for fear they would obstruct the record, but I will hand you these and ask the Doctor if he knows what they are. I, frankly, do not.

A. This is a collection of some of my patients that I thought that their ledger sheets would be brought up during this lawsuit, and it was in a special collection, and among them is the ledger sheet on Mr. J. Noel Edwards and it is in the same handwriting exactly as to all the other ledger sheets, which is Betty Newell's handwriting.

Q. And should it be a part of Exhibit 304-A and B which have been introduced?

A. Yes, it should be.

Q. Have you taken it out of this group?

A. Well, it was not intentional. As I say, I culled through [1128] that whole bunch trying to never dreamed we would put in the whole batch, and pick up ledger sheets I thought might be used. I

(Testimony of Miles H. Robinson.)

I told Mr. Sembower several days ago that I had found this thing and this is it.

Q. May I see the ledger sheet you refer to?

A. Yes.

(Document handed to counsel.)

Q. Doctor, what does the symbol that you have preceding, that RX, stand for?

A. It says, "Dau."

Q. No, the RX I am referring to, what does that refer to?

A. Well, RX is an abbreviation commonly used by physicians for treatment. It is used on prescriptions and we also use it for treatment.

Q. It is used mostly for prescription and treatment?

A. Yes, it is that way all through my notes.

Q. Now, Doctor, will you please turn to your patient chart, whatever you call them, for Noline Edwards and tell what entries you made regarding the professional treatment of the child in this case? I expect you can pick this out quicker than I can.

The Court: Shouldn't this sheet be in evidence?

Mr. Sembower: These should be inserted in those papers wherever we can put them in.

Mr. Kimball: I didn't know these weren't complete, [1129] your Honor.

Mr. Sembower: Nor we.

Mr. Kimball: I am not inferring that you did.

(Testimony of Miles H. Robinson.)

Mr. Sembower: Nor did we, and we had no occasion to introduce these in evidence. It just didn't come to my attention, but they are a part of these and should be placed in with them.

Mr. Kimball: We would like to examine them.

The Court: Yes, I think opposing counsel should be present when you do it during the adjournment or recess.

Mr. Sembower: Yes.

A. I have the record, Mr. Kimball.

Q. (By Mr. Kimball): Read what it says, please, Doctor.

A. "Noline Edwards, granddaughter of Mrs. Brooks, raised swelling right lid and yellow spots, conjunctiva." It is my abbreviation for that.

Q. Excuse me, is this pertaining to the dollar and a half deal?

A. No, it is pertaining to Noline Edwards.

Q. Well, I didn't state my question correctly, I am referring to the treatment for which you charged a dollar and a half.

A. So far as I know, that was never written up in my notes.

Q. You had a chart on her at the time?

A. Yes, but I frequently don't make notes on them. [1130]

Q. Doctor, as I recall your testimony last week, I thought you testified that you had made a charge for this service partly based upon the reason that you had found that the Lepianes' account was a slow account, they owed you about \$40.00, or some-

(Testimony of Miles H. Robinson.)

thing to that effect. Will you tell me what you said regarding that?

A. Well, I couldn't tell you exactly what I said. I can tell you what the facts are.

Q. Tell me what the facts are, then, please.

A. Well, I would like to look at the ledger sheets, if I could.

Q. Sure.

A. The reason I have to take a little time is because sometimes, I mean, that might be shown in the ledger, I suppose it would, but there might be a note in my notes on these people. Which party was it?

Q. Well, I understood you to say that the Lepianes had owed you an account of \$40.00.

A. There are two Lepianes.

Q. Well, you tell me, Doctor, you are more familiar with that than I am.

A. Well, I only find Mike Lepiane's in here, and my recollection is that the ledger sheets on the other Lepianes are in my dead file of ledger sheets, and I further recall that there was a very slow payment there, [1131] which I felt was not justified, and I think it did color my feeling a little bit, that I should charge these people something for the effort that I made on them.

Q. Those facts are not shown by the books you have there, though, Doctor?

A. They don't seem to be. I would be glad to look through the whole ledger. There may be a

(Testimony of Miles H. Robinson.)

sheet misplaced, but I don't find it in the alphabetical place.

Q. Maybe you can do that at recess.

Doctor, tell us again, if you will, please, of the advice that you gave by telephone in one or more of the conversations pertaining to the Noline Edwards child re the dollar and a half charge.

A. Well, I received this telephone call from a quite excited lady and she said, "My little girl—" I believe she said the little girl and I don't know if she said "my" or not—"has swallowed some candy sulfa and what should we do?"

Well, I said—I mean, this is just the summary of it—I said, "Make her vomit," and I told her three different ways to make the child vomit, and I said, "If that doesn't work, get in touch with me and we might have to take her to the hospital, and in any case we will see what to do next." Now, that was the first conversation [1132] and I just can't say if I ever had a second conversation or not with her. I halfway feel that I did and that she said everything was all right, but in any case, I tried to call two or three times and was unable to reach any member of the family. I was quite concerned when I didn't hear from them.

Q. Doctor, I will hand you what has been marked as Plaintiff's Exhibit 10, which has been referred to here as the complaint that Mrs. Noel Edwards made regarding the dollar and a half charge, and ask you to glance through it and tell the Court what parts you would agree with as being

(Testimony of Miles H. Robinson.)

a true account of the affair and what parts you disagree with

I will take these if you are through with them.

The Court: That is Exhibit 10, isn't it?

Mr. Kimball: Yes.

The Court: All right.

A. Well, it seems to me that the date is off, to begin with. It says June 3rd, 1950, and I have just discovered from my records—in fact, I never looked at this thing until this day since I wrote it down, I don't believe—that it was June 9, 1950.

Now, it says here the baby swallowed a box of Ex-Lax pills, and I don't know what the baby swallowed, but I know what they told me, that it was sulfa. If I [1133] restrict myself to what I know is true and what I know is not true, I mean there are a lot of things in here that I don't know one way or the other.

Q. Go right ahead and state those, too.

A. Pardon?

Q. State those, too, if you don't have a definite recollection.

A. Well, it says here, "age two." I don't know how old the child was exactly.

Q. Was it about right?

A. Well, probably sounds about right. It says she works for a dentist in Walla Walla, and I know at one time she did work for a dentist.

It says her daughter is cared for by Mrs. Edwards' sister. Well, I don't know who it was being cared for by.

(Testimony of Miles H. Robinson.)

It says the sister called me. Well, I don't know what woman it was that called me for instructions.

And the doctor instructed her to induce vomiting either with salt water or running her finger down the baby's throat. Well, that isn't quite what I said. I said tickle the baby's throat, because that is a simple, cheap and harmless way to make her vomit. And if that doesn't work, give her mustard and water. If that doesn't work, I may have said salt water, which is another method. [1134]

Now, it says, "He stated that it was serious." Well, I don't know if I used that word, but I said, "It is important to make this child vomit."

And it says, "He would send immediately a prescription." Now, I recall nothing about sending any prescription.

It says if the prescription did not work, it would be necessary to take the baby to the hospital and have the stomach pumped. Well, I don't recall that at all, because I told them if the vomiting doesn't work we might have to take her to the hospital.

It says the sister induced the vomiting. I can't testify to that.

It says she called me again, and I really don't recall that. I don't recall that telephone call. All I recall is trying to get them.

It says the doctor stated, "Oh, dear me, I forgot all about the prescription." Now, I don't recall any such thing as that.

"He then advised the use of Epsom salts." Well, now, that makes me think that I did reach them on

(Testimony of Miles H. Robinson.)

the phone the second time, because I think I remember I told them to take Epsom salts after the vomiting.

She says here, "Received a bill from the doctor for a dollar and a half." I suppose she did, I don't know. [1135] The girl sent those out.

It says, "She inquired from the doctor's nurse and was advised that it was for the prescription." Well, I really don't know what my nurse told her.

"When told no prescription was sent, the doctor stated it was for a telephone call." Well, I never talked to Mrs. Edwards in the office about this. My nurse may have told her that, but I couldn't tell you.

It says, "Mrs. Edwards' husband refuses to pay the bill on the grounds the doctor did not perform the services he stated." Well, I never could understand why they didn't pay the bill.

"And for the further reason that if the sister had waited for the prescription, the doctor's failure would have been serious." Well, I don't—I mean I don't agree with that because a prescription was not in this treatment.

"The above statement was given to me on 8-29-50." I don't know that.

Now, in the margin it says here written in handwriting, "Discussed with Dr. Robinson 9-23-50. Admitted he might have told the patient he forgot the prescription." Well, I don't remember anything about forgetting any prescription. That was Ralph

(Testimony of Miles H. Robinson.)

Stevens when he stopped me on the street on this matter. [1136]

Q. Let me interrupt you there. Might you have said something about the prescription, a prescription? I am not asking if you did or didn't, but might you have?

A. Well, when you are practicing all day and dealing with prescriptions all day, why, that is conceivable that I might have put it off on some such basis or something like that, I don't know.

It says, "He called several times and the child had been moved from one home to another." Well, I know I called several times, but I don't know—and I couldn't reach the family, and I have learned since that they were moving from one house to another, but I don't know that myself.

Q. What you are reading now is Dr. Stevens' notes on the edge, are you not?

A. Well, I have been told these are his notes on the edge.

Q. They are not part of the typed-up complaint?

A. No.

Q. Then, doctor, would you concede that there might have been some basis for Mrs. Edwards, rightly or wrongly, to have had some misunderstanding regarding your dollar and a half bill?

A. Well, I think she wrongly had a misunderstanding, yes.

Q. Do you think she had any basis for even a wrong understanding? Was there anything that she might have been [1137] mixed up about?

(Testimony of Miles H. Robinson.)

A. Well, obviously, she was mixed up.

Q. Do you think there was anything from what you told the baby sitter or somebody else that could have been confused by them relative to prescriptions? A My directions were simple and clear.

Q. Doctor, in your testimony in this case, didn't you say:

"Q. Was there any conversation between you and the caller with respect to a prescription?

"A. I think there was a conversation there about the prescription."

Isn't that what you testified to in this case the other day?

A. Well, as I say, I don't remember exactly about the prescription, if any. I think this, that the child—it seems to me when I talked to the mother the second time, the child was not feeling well and was crying or something of that kind, and I may have said something about a prescription for the child, paregoric or something like that, but I really can't tell you anything more. It just wasn't a part of the treatment.

Q. Doctor, if you did say something about a prescription and none was sent, can you conceive that that might have been the basis of a complaint by Mrs. Edwards?

A. Well, I am really in the dark about the complaint [1138]

Q. When you sent the bill for a dollar and a half, was it a single item or was it included in a larger bill sent to the patient?

(Testimony of Miles H. Robinson.)

A. Well, I didn't send out the bills and I couldn't tell you to this day.

Q. You don't know?

A. Well, the record will probably show how it went out.

Q. Well, you don't know, is that your answer now?

A. No, I don't know.

Q. Would your records show whether the charge was made for a prescription or for other professional services?

A. Well, I think I read the record of my day sheet, that it was for treatment.

Q. Well, I am not getting the answer I was asking, getting a reply to the question. I am trying to ask you, do your records here show whether or not the charge you made and for which the Edwards were billed was for a prescription or for other services rendered?

A. Well, I would like to see the record again, I think.

Q. Which record?

A. It is those big day sheets.

Q. Sure.

(Documents handed to witness.)

A. All it says here is "Mr. Noel Edwards," and I might say we always put the person who pays the bill first, at [1139] least that was Betty Newell's policy. It says here, "Mr. Noel Edwards' baby, Noline, poisoning, RX," which in my sign language meant poisoning treatment, "\$1.50."

(Testimony of Miles H. Robinson.)

Q. That is what you said was medication or prescription, was it not?

A. Well, it could be either.

Q. All right. A. It is whatever I did.

Q. Doctor, when did you first learn that Mrs. Edwards or any member of her family was unhappy about the charge of a dollar and a half?

A. When that letter of September 30, 1950, landed on my desk.

Q. September 30, 1950?

A. I think I have the date right.

Q. I am not trying to quarrel with you, but hadn't you talked to Dr. Stevens a few days before that?

A. Yes, you are quite right. I really first learned about the complaint on the 23rd of September when I talked to Dr. Stevens on the street.

Q. And on that occasion when you talked with Dr. Stevens on the street, did he state to you that Mrs. Edwards had made a complaint over a dollar and a half charge?

A. Well, in substance, he did.

Q. Doctor, did your nurse—you told me her name, but I have forgotten, Betty [1140] someone—

A. Betty Newell, at that time.

Q. Newell—at any time between June the 6th, 1950, or June the 9th, 1950, and August the 29th ever report to you that Mrs. Edwards was in the office inquiring about the bill and why the charge was made?

(Testimony of Miles H. Robinson.)

A. I don't remember any such conversation.

Q. Would you say that she hadn't been?

A. Well, that is pretty hard, because she talks to me—she talked to me frequently about things. I just don't remember any complaint like that.

Q. When Dr. Stevens and you talked on this matter on the 23rd of September, did you make an explanation to Dr. Stevens of what you thought might have happened and what you did?

A. Yes.

Q. Did you deny that there might have been some element of prescription involved?

A. Well, I think he said something about a prescription and——

Q. My question was, did you deny that, Doctor?

A. I am just trying to get the negative straight. Could you put that in a different way?

Q. Maybe I can. Did Dr. Stevens state there was an element of prescription not being sent in the Edwards' complaint?

A. Well, I think he probably did.

Q. And did you deny that? [1141]

A. Did I deny that there was an element of prescription?

Q. Yes.

A. Oh, well, I told him that that was not the issue.

Q. What did you tell him was the issue?

A. Well, that the child had swallowed some poison and I told them how to make the child vomit

(Testimony of Miles H. Robinson.)

and, as far as I know, the child vomited. I never heard anything more about it.

Q. Did you understand, Doctor, at that time in your conversation with Dr. Stevens that he, Dr. Stevens, was talking to you as chairman of the grievance committee of the Walla Walla Medical Society?

A. Well, I think I did understand that by the time we got through the conversation, yes.

Q. As a matter of fact, Doctor, didn't you more or less resent Dr. Stevens mentioning the subject to you at all?           A. Yes, I did.

Q. Did you as much as say that it was none of his business or the grievance committee's business what you charged the patient or what your relations with the patient were fee-wise?

A. Well, I don't think that is a complete statement of what——

Q. I didn't mean it to be a complete statement, I was trying to summarize it. If it isn't a complete statement, tell [1142] me what you did tell the doctor, Dr. Stevens?

A. Well, I said, "I have done a sensible thing with this patient, I have charged them a very small fee for my time, which was at least a half an hour with all those phone calls and a little puzzling over it and what not——" and it might not have been half an hour, but somewhere around there—and I said, "I have heard nothing from the family since and now out of a clear sky you are telling me that the family should not pay the bill, and," I said, "I

(Testimony of Miles H. Robinson.)

don't think that you have any right to do that and I don't like this secret committee and I just don't think it is the right thing to do."

Q. You knew Dr. Stevens was chairman of the committee?

A. I believe he announced that. He stopped me on the street and he said—I think he said, "I am chairman of this new grievance committee and we got a little complaint here and we think that you should forget the bill." He said that before I could even explain what had happened.

Q. Well, then, it wasn't a secret grievance committee as far as he being chairman of it was concerned?

A. Well, it became unsecret right then.

Q. Yes.

A. Until that time, I didn't know who was on it. [1143]

Q. Did you also charge Dr. Stevens with improper professional conduct on his part?

A. Well, as I said the other day, I said, "Well, now, look, Ralph, why don't you look at the mote in your own eye? You are up there making a lot of money off of glasses, which you know is highly unethical, and here you are bothering me about my miserable little dollar and a half fee." Yes, I did tell him that.

Q. Now, Doctor, I want to separate my questions at this point, if I can, into two general categories. I want to find out from you what you did about the Edwards' complaint when you received

(Testimony of Miles H. Robinson.)

a copy of the letter from Fullerton on September 30, 1950, and then later as to a separate group of questions, I want to examine you relative to the Brooks' complaint, so I make that explanation to kind of point out what I am getting at.

Doctor, you testified that after getting the letter of September 30th, you wanted to contact the Edwards family and see why the complaint had been filed and the reasons for it, is that correct?

A. Yes.

Q. Was that the only reason you wanted to see the Edwards family after getting that letter?

Mr. McNichols: Your Honor, I am going to raise an objection on that on the basis we are repeating on Mr. Tuttle's [1144] coverage.

Mr. Kimball: I will cover it just as fast as I can.

The Court: Well, all right, go ahead.

Q. (By Mr. Kimball): Was your answer yes?

A. May I have the question?

The Court: Better read the question.

(The question was read.)

A. Well, what was the statement before?

Q. (By Mr. Kimball): Well, I was asking you relative to your desire to see the Edwards family after getting the September 30th letter from the grievance committee.

A. Just what is your question?

Mr. Kimball: Would you read the question?

(Testimony of Miles H. Robinson.)

(The question was again read.)

A. Yes.

Q. And in that connection, Doctor, I believe you testified you went to College Place on or about the 3rd or 4th to see the Edwards at their residence and found no one there on the first occasion, is that correct?

A. I went to see them and it seems to me I had some difficulty finding them at home.

Q. Were you told by the neighbor, a Mrs. Nadine Powers, that they weren't home?

A. Well, I don't know Mrs. Nadine Powers and I don't particularly recall being told anything about it. [1145]

Q. Next, let me ask you, Doctor, if you did not on or about the 5th of October, 1950, again make a personal trip to the Edwards' home at College Place and on that occasion see Mrs. Edwards and I think you said Mrs. Brooks?

A. All that I remember——

Q. Just answer the question, if you can, please, Doctor.

A. Well, I can't answer it unless I just tell you that all I remember is one call that I made on the Edwards in College place.

Q. Would that be the call that I just referred to when Mrs. Brooks was there?

A. Well, it seems to me the record, my ledger sheet there, shows that call on, I think it is, October the 5th.

(Testimony of Miles H. Robinson.)

Q. Well, you testified about it before. Is that the call when Mrs. Brooks paid her bill?

A. Yes.

Q. All right. Now, is it not a fact, Doctor, that you again made another trip to see Mr. Edwards?

A. I don't recall that.

Q. I will refresh your recollection. Do you remember meeting Mrs. Edwards at the porch where she greeted you?

A. I don't remember that.

Q. You don't remember calling after working hours, knocking on the door, and being greeted by Mrs. Edwards at her front door? [1146]

A. I remember being greeted by Mrs. Edwards when I went out there, but on that one occasion.

Q. Just the one occasion, no other one?

A. I don't recall any other occasion.

Q. And are you quite sure of your recollection in that regard, Doctor?

A. Well, as sure as I can be.

Q. I believe you testified that when you saw Mrs. Edwards at the call, you do remember you asked about the grievance that she had had and filed and you had a more or less friendly talk about it; is that a fair summary?

A. Yes.

Q. And that was the reason you had gone out to see her?

A. Well, you said is that a fair summary; I don't think that is a fair summary.

Q. Well, you had a friendly talk with her about this grievance matter, this dollar and a half that she had filed a complaint on, did you not?

A. Yes.

(Testimony of Miles H. Robinson.)

Q. And you said that was the only reason you went out to see her, did you not?

A. That's right.

Q. In other words, there would have been no other occasion for you to go out again, would there? [1147]

A. Pardon?

Q. There would have been no other occasion for you to go out again, would there?

A. Oh, yes, she said that she would get this letter and let me know and let me see this letter. And that is why I called her husband later in the week, I hadn't heard from them.

Q. And you didn't see her again?

A. Well, I don't remember it.

Q. Do you remember offering to take her to the post office to pick up the letter?

A. Well, I don't think I did.

Q. Would you say you did not?

A. Well, I don't know as I would say that, either. I don't believe they had a car and I think the question came up about this letter and that may have been mentioned.

Q. Maybe this will refresh your recollection: Did she explain to you that it would do no good because the post office was closed at five or six o'clock? Does that refresh your recollection?

A. All I remember is that she said they didn't get their mail at the house and there was something about the post office problem of how they got their mail.

(Testimony of Miles H. Robinson.)

Q. Doctor, on the 6th, then, you don't remember going out to the Edwards home again on this matter? [1148]

A. No, I don't. I do remember that I had trouble finding them and I may have been out there in College Place twice looking for them.

Q. Going on to Saturday of that week, do you remember whether or not you went up to the place of employment of Mr. Edwards, that is, the Singer Sewing Machine shop in Walla Walla, and inquiring for Mr. Edwards personally on Saturday morning?

A. Well, I recall seeing Mr. Edwards.

Q. If you can't answer my question, then give any explanation you wish to. Do you recall that? Answer yes or no, please.

A. Well, you have in there the date and the place.

Mr. Kimball: Will the Court please instruct the witness to answer my question?

The Court: You should answer the question or say you can't, then give the reason why you can't.

A. Well, I don't remember.

Q. (By Mr. Kimball): Do you recall, Doctor, whether or not you went to the Singer Sewing Machine place of business again, a second time, on Saturday morning, the 2nd of October, and inquired for Mr. Edwards?

A. I don't recall that.

Q. You do not recall. Would you say you didn't?

A. I don't think I did. [1149]

(Testimony of Miles H. Robinson.)

Q. Did you see Mr. Edwards on Saturday morning?

A. Well, that is the problem. I talked to Mr. Edwards on Friday or Saturday.

Q. I am referring to Saturday morning, If I didn't make that clear?

A. Well, I couldn't tell you really for sure what day it was.

Q. You say you did see him, then, Friday or Saturday?

A. I think I saw him, but I couldn't swear to it. I talked to him.

Q. Where do you think you saw him, Doctor?

A. Well, you see, I talked to him about this matter and I think it was on the phone.

Q. You think it was on the telephone and not personally?

A. Well, I am just really not sure.

Q. Doctor, on Saturday afternoon, did you go out to the Brooks' home and ask for Mr. Tom Brooks, inquiring actually of Mr. Emerson, his son-in-law?

A. Well, I know—I wouldn't say that I did.

Q. Would you say you didn't?

A. Well, I tried to contact Tom Brooks and I talked to him, but—well, let's see. I only talked to him on the phone, so I am quite sure I didn't go out to his home.

Q. You are quite sure you did not go out and inquire of him and where he was? [1150]

A. Yes.

(Testimony of Miles H. Robinson.)

Q. And on the evening of the same day, Saturday, the 7th, I believe you testified you made your first call to Tom Brooks, correct?

A. Well, I talked to him on Saturday, I remember that. I wouldn't say whether it was evening or not, I don't recall.

Q. I thought you told us you telephoned from home and it was your recollection it was in the evening?

A. Well, it probably was in the evening, then, because I did call him from home.

The Court: Time for afternoon recess, ten minute recess.

(Whereupon, a short recess was taken.)

Mr. Kimball: Would the reporter read the last question and answer, please?

(Whereupon, the said question and answer were read.)

Q. Dr. Robinson, did you take up with Mr. Brooks on the occasion of this first telephone call to Mr. Brooks the question of the Edwards' letter or the grievance committee's letter?

A. Well, it came up in the conversation, yes.

Q. Did you bring it up?

A. Well, I don't know just which one of us brought it up.

Q. Well, the letter was addressed to Mr. Edwards, I [1151] believe, was it not?

A. Yes. Well, I think so. Mr. or Mrs. Edwards.

(Testimony of Miles H. Robinson.)

Q. Mr. or Mrs. Edwards. Well, would you have probably brought it up? Why did you call Mr. Brooks that night?

A. Well, I had expected to see him in the office.

Q. Well, Doctor, how many times had Mr. Brooks been in your office?

A. Well, several times.

Q. Several, how many?

A. I couldn't tell you exactly.

Q. More than the two times you have testified to?

A. Well, I think he came in with his wife a number of times.

Q. You think he came in with his wife a number of times. As a matter of fact, didn't Mrs. Brooks' daughter usually come in with Mrs. Brooks, Mrs. Enid Emerson?

A. It seems to me she did.

Q. Do you remember ever having Mr. Brooks in your office for medical purposes except the two occasions you testified to when you took blood samples?

A. Well, those are the two I remember where he came in for treatment of himself.

Q. And that was from the period in March until this date on October the 7th, 1950?

A. Well, it started in February, around February 7th, something like that. [1152]

Q. All right, with that in mind, what did you call Mr. Brooks about that night?

A. Well, I called him about the old problem that I had had with him.

(Testimony of Miles H. Robinson.)

Q. Did you call him about the letter?

A. That was not the main subject of the conversation.

Q. Will you please answer my question? Did you call him about the letter? A. Why, no.

Q. Your testimony is you did not call him about the letter? A. That is right.

Q. When you had him on the telephone, did you ask him about the letter?

A. Well, we discussed the complaint and the letter.

Q. Why did you take it up with Mr. Brooks?

A. Well, Mr. Brooks, he is the head of the family.

Q. The head of the family. Explain your answer, please.

A. Well, I would say that he was the dominant member of the clan.

Q. Dominant member of the clan. Were his children all patients of yours?

A. I don't know just how many of his children and grandchildren were. I added it up once and I think there were seven of them.

Q. Well, Dr. Robinson, I will put my question this way: Were [1153] all of the children of Brooks that you knew of grown and adults?

A. Oh, I think they were.

Q. And as far as you know, did they all have their own homes?

A. Well, I really didn't know too much about their homes.

(Testimony of Miles H. Robinson.)

Q. Did you know that they were all married?

A. I didn't know.

Q. You didn't know? A. No.

Q. You had been in the Brooks' home?

A. Yes.

Q. Did you express to Mr. Brooks on that occasion that you wanted to see the letter that was written to the Edwards'?

A. No.

Q. You didn't?

A. I said to him that, "Your daughter had told me she was going to let me see this letter."

Q. Why would you mention that to Mr. Brooks?

A. Well, because she was his daughter.

Q. Did you want him to do something about it?

A. Well, there were really two propositions afoot: One was whether he was going to come in and get his tests made and his treatment, and the other was the family had told [1154] me out in College Place that they were going to show me this letter.

Q. And you hadn't seen Mr. Brooks since early in May professionally?

A. Oh, I couldn't say when I last saw him.

Q. Do you have any reason to believe you saw him after May 5th, I believe you said you took the blood sample?

A. Oh, I know I saw him after that.

Q. Professionally?

A. Well, I would go out to the house and he would be there with his wife.

Q. You didn't go out to see him, did you?

(Testimony of Miles H. Robinson.)

A. No, not particularly. Principally treating his wife.

Q. Doctor, did Mr. Brooks on that occasion and in that conversation, Saturday evening, tell you that he didn't know anything about the letter?

A. Well——

Q. Answer, if you can, yes or no. Then give your explanation, please, Doctor.

A. No, he didn't tell me that.

Q. Did he tell you he did know something about the letter?      A. He was rather——

Q. If you can, I don't want to be cross.

A. Yes.

Q. What did he say he knew about the letter? [1155]

A. I said to him, I said, "Your daughter has made this complaint against me and I would like to explain to you my position on the matter," and I told him the same thing that I had told the Edwards.

Q. Well, did Mr. Brooks tell you that he knew anything about the letter?

A. Mr. Brooks just didn't say yes or no on that subject directly, but then he gave me to understand that he knew all about it.

Q. What did he say that gave you to understand that, Doctor?

A. Well, he said—the Spokane business was the main thing he said. He said, "Well, I told my daughter in Spokane not to pay a bill," and he said something then inferring to me that he had encour-

(Testimony of Miles H. Robinson.)

aged his daughter in what she done, but he didn't say so in so many words.

Q. Did he say in so many words that he had seen the letter?

A. No, he didn't say that. At least, I don't think he did.

Q. Did you state to him that you considered it a mysterious situation that the letter hadn't been delivered or you had been told it hadn't been delivered?

A. Yes, I said, "This is rather peculiar."

Q. On all these occasions where the letter was discussed, did you have reason to question the fact that the letter had not been delivered and received by the Edwards? [1156]

A. Well, after that first visit over in College Place I really felt they were not telling me the truth. I felt that they were just making a mystery out of the thing and kind of playing a game with me.

Q. Well, Doctor, did you know that Mr. Edwards was regularly employed?

A. Mr. Edwards?

Q. Mr. Noel Edwards?           A. Yes.

Q. I will ask you, did you know that Mrs. Noel Edwards was regularly in full-time employment?

A. Well, just a minute. I think Mr. Edwards worked for the Singer Sewing Machine, but I don't know whether he was regularly employed or what his arrangement with them was.

(Testimony of Miles H. Robinson.)

Q. What about Mrs. Edwards, did you consider she was regularly employed?

A. Well, at one time she worked for Dr. Smethurst, but I don't know whether it was at this time or not.

Q. Didn't they tell you they were both employed during the daytime and that was the reason they couldn't get their mail?

A. Well, there was something said of that nature.

Q. But you questioned it?

A. No, I didn't question it, I was just——

Q. Excuse me. [1157] A. Go ahead.

Q. I interrupted you, Doctor. Please go ahead.

A. Well, I was just surprised that anybody would not get their mail oftener than once a week. I was inclined to think that was not a plain, true statement.

Q. Doctor, on Sunday morning, the 8th, following this Saturday night conversation that we have just been talking about, between the hours of 7 and 8 in the morning, a.m., did you again telephone Mr. Tom Brooks at his residence?

A. Oh, I telephoned him Sunday morning, but I couldn't give you the time.

Q. Would that time sound about right to you?

A. It sounds a little early to me.

Q. Well, what time do you think you called, if you know?

A. Well, I think it was around 8.30, maybe 9 o'clock.

(Testimony of Miles H. Robinson.)

Q. Did you again state to Mr. Brooks, among other things, that you wanted to see the letter from the grievance committee to the Edwards?

A. I certainly did not.

Q. Now, Doctor, I am going to ask you this: Did you not tell Mr. Brooks on that occasion, that is, the morning of Sunday, the 8th, that unless he, Tom Brooks, as head of the household, procured for you the original letter sent to the Edwards, sent to Mr. Edwards and Mrs. [1158] Edwards, that you would reveal the physical ailment of Brooks and his wife, who were your patients? Did you not do that?

A. I did not.

Q. Did you say that you would turn them over, turn their cases over, to the public health authorities?

A. Now, I told Brooks that and I am just trying to place the time. Yes, it was on Sunday.

Q. And you deny that you told him you were going to tell any member of their family about their physical condition?

A. Deny what?

Q. Do you deny that you told him you were going to expose his physical condition and that of Mrs. Brooks to other members of the family?

A. No, I never told him that.

Q. You are very sure of that?

A. Positive.

Q. Did Mr. Brooks, in reply to something you said to him, by his talk or manner indicate that he construed you had threatened him?

A. Oh, yes, he called me back.

(Testimony of Miles H. Robinson.)

Q. No, I mean on this occasion, Dr. Robinson, on the first phone call?

A. Well, in one of those two phone calls on Sunday, yes, he said, "You are threatening me." [1159]

Q. Was that the first phone call, Doctor?

A. Well, I am not just too sure. He was pretty abusive in both phone calls.

Q. Pretty abusive. Well, what was he abusive about in the first phone call?

A. Well, you see, I called him back on Sunday—

Q. No, please, Doctor, I am talking about—oh, excuse me, you mean the first phone call on Sunday?

A. Yes.

Q. All right, that is what I want.

A. Well, I called him back on Sunday and I said, "I have been thinking over what you said last night about you having a negative Wasserman when you came in the country and," I said, "this really brings the thing to a head. Either you take treatment or I am getting out." And I didn't say it in this severe way, I was very reasonable with the man, and I talked to him for about twenty minutes. I said, "The situation as I conceive it, is a rather urgent one and you are quite possibly contagious and your children or any contacts you might have might catch this condition and I will be held responsible." [1160]

And so I said, "You either come in or I will just have to terminate my relationship with you."

Well, then, he said, "You have been experiment-

(Testimony of Miles H. Robinson.)

ing with my wife," and I was really quite surprised when he said that. He was referring to the treatment that I had given her, and when he said that, I said, "Well, I just can't talk to you any more about it," and I hung up on him.

Q. Then, there was nothing said about threats by Mr. Brooks to you?

A. Well, I also told him that, "If I retire from the case, why, I will have to turn you over to the Public Health Department."

Q. And what did he say?

A. Well, maybe that is when he said I was experimenting, I don't know, but that was all that was said.

Q. Did he say anything about threats?

A. He said, either in that conversation—oh, I couldn't tell you. It was one of the two. He said, "You are threatening to expose me," and I imagine it was in that conversation, and I said, "Well, I am not threatening you at all, I am telling you what I have to do."

Q. Was that all?

A. Well, as far as I can recall, it is.

Q. And did you tell him in a nice way, as you say, that you [1161] would have to also tell other members, responsible members, of his family?

A. I never told him I would have to tell them.

Q. Did you ever tell them you would?

A. I never did.

Q. Actually, Mrs. Enid Emerson, an adult

(Testimony of Miles H. Robinson.)

daughter, had come in with her mother regularly or at regular intervals, had she not?

A. Well, one of the daughters had, I couldn't tell you which one it was.

Q. Was she not the daughter that you said you taught her to use the penicillin needle?

A. Well, I taught one of the daughters how to give the injections, yes.

A. Well, that daughter knew of her mother's condition, or your diagnosis of it, did she not?

A. Well, yes.

Q. Did you consider her an adult member of the family?

A. Well, yes, she was a grown young woman.

Q. And she already knew of the fact regarding her mother and father?

A. Well, I assume so.

Q. Why did you assume, then, doctor, that you must tell someone else in the family?

A. I didn't assume that I must tell them, I thought that it [1162] would be proper for them to know. As a matter of fact, I was inclined to think they probably did know.

Q. And you are saying, your testimony now is, you didn't tell Mr. Brooks that you would tell other members of the family of his and his wife's physical condition? A. Oh, no.

Q. On any occasion?

A. I never told him I was going to do any such thing.

(Testimony of Miles H. Robinson.)

Q. Doctor, did Mrs. Tom Brooks ever refuse to take any treatment that you prescribed for her?

A. I don't think so.

Q. Did you find her co-operative as a patient?

A. Oh, yes, she was a very co-operative patient.

Q. Had you ever given Mr. Tom Brooks any medication of any kind for any ailment he had?

A. Well, I may have given him some minor thing, I couldn't tell you for sure.

Q. Do you have any reason to believe you gave him any medication or treatment of any kind?

A. Well, the reason I would have was that I went out to the home many times and—

Q. Just a moment, please.

A. You asked me if I had any reason to think so and I am giving you my reason.

Q. Very well, go ahead. [1163]

A. That when a doctor goes out to a home to see one member of the family, there are five or six other people, maybe, and quite often they ask for a little treatment.

Q. Well, Doctor, you have gone over your records in this matter fairly recently, have you not?

A. Well, I haven't gone over them as well as I wish I had.

Q. Haven't you gone over your records in connection with this lawsuit, preparing for it?

A. Well, I have looked through the Brooks' records, if that is what you mean.

Q. Do you find anything in your records to indi-

(Testimony of Miles H. Robinson.)

cate you ever did any medication of Mr. Tom Brooks at any time?

A. Well, I better see the records.

Q. Will you do so tonight and let me know in the morning? A. Well, they are right here.

Q. All right, will you look at them right now? Do you want the file of Mr. Tom Brooks?

A. Yes, and the ledger sheet there.

Q. I hand you first 269, which is, I believe, what you call your case record. A. Thank you.

Mr. Kimball: And, Tom, will you please hand him that?

A. Oh, I don't need those, thanks.

Q. Do you need this (indicating)?

A. Yes, I do. I appreciate that. I don't believe I have [1164] any record of treatment on him here.

Q. Do you care to examine your other records? Would that serve any useful purpose?

A. Well, I would really have to look through—it would take me probably two hours to look through the whole day sheets, but I don't recall any particular treatment of him.

Q. Dr. Robinson, referring to Exhibit 269, which is the case record you have for Mr. Tom Brooks, there is a sheet at the bottom of the file bearing the number 16, the top of which is, "Mr. T. R. Brooks, 3-9-50." Would you read what follows?

A. Well, it says "B."

Q. "B" meaning what?

A. It means blood. Says, "For Wass." And

(Testimony of Miles H. Robinson.)

then the word "belligerent," underlined, period, "early paresis."

Q. When was that record made?

A. It shows March the 9th, 1950.

Q. I think you previously testified the records were made currently. Does that mean it was made on March the 9th, 1950.

A. Oh, yes, I assume so.

Q. That was your custom and regular practice?

A. Yes.

Q. And what was the date of the first blood that was taken [1165] from Mr. Brooks?

A. May I see those day sheets?

(Documents handed to witness.)

Well, I find here in my day sheets on the date of March the 9th, 1950, "Mr. T. R. Brooks" and the letters "OC," which in our language means office call, and after that in Betty Newell's handwriting here is "self" and then a charge, \$3.00.

Q. That is the first occasion when you saw him and when you took the first blood?

A. Well, that is one of the occasions.

Q. Was that the first, Doctor?

A. I just couldn't tell you without checking all through here. I may have seen him earlier. Let me see the chart here on him.

Q. Is there something you need here, Doctor?

A. Well, I think I have it right here. Well, the report of the Kline reaction test for the disease here is dated March the 9th, 1950, and so it seems to me

(Testimony of Miles H. Robinson.)

that that was the first time I saw him, because down below here is the test sent to the State Health Department in Seattle, which says May the 5th, 1950, and I believe——

Q. Excuse me, Doctor, just go back to the 9th. The first one.

A. I am telling you just why I think this is the first time. [1166] You are asking me if it is.

Q. Yes, that's right, go ahead.

A. And so we have here below the second test on May the 5th, 1950, and since I am pretty sure we only took two tests on him, if the second one was May 5th, 1950, the first one must be this March 9, 1950, and that was undoubtedly the first time I saw him except for maybe being along with Mrs. Brooks or in his home.

Q. Doctor, when did you get the result of this first call, of this first Wasserman?

A. Well, it says here, "Test made March 10, 1950," and they go in the mail probably on the 11th and I suppose that I would have got it on the 12th.

Q. Then, Doctor, tell the Court on what basis you made your entry on the 9th that he has paresis?

A. Well, his wife had syphilis.

Q. Did you make a diagnosis of him on the basis that his wife had syphilis?

A. Well, now, just a minute. This is not a diagnosis, this is a concern that I had as to whether he might not have early paresis. That is a reminder to me the next time I saw him to look further into the matter.

(Testimony of Miles H. Robinson.)

Q. That does not tend to show, then, that you diagnosed him as having the disease on the date you made the entry?

A. No, that is a provisional diagnosis. I mean, my general [1167] policy is to put down the thing that I would fear most and disprove or prove it.

Q. (By Mr. Kimball): Doctor, from your records you find no evidence of the fact you ever gave Tom Brooks any medication or treatment?

A. No, I have no records of any treatment.

Q. And on the time of your telephone conversation with him on the 7th and 8th of October, had you seen Tom Brooks professionally since May or whenever your second blood test was in the spring?

A. That question is very hard to answer.

Q. Well, have you any evidence that you saw him or any reason to believe that you saw him professionally?

A. Well, it turns on the word, "professionally."

Q. I mean in regard to his sickness?

A. Well, yes, that is the point, I could say yes to that. I think that is a fair answer. And, if I may explain, I was seeing his wife regularly and seeing him every now and then with his wife and at regular intervals asked him if shouldn't go ahead and have something done about this, and I think that comes under the category of a professional inquiry.

Q. Doctor, the point of my inquiry is this: What new factor, if any, had entered into the situation in your relationship between Mr. Brooks and you that impelled you [1168] to feel under compulsion

(Testimony of Miles H. Robinson.)

to turn his case over to the public health authorities and reveal his condition?

A. Well, to turn it over to the health authorities was his revealing to me on that Saturday night that he had had a negative Wasserman recently, that is, when he came in the country.

Q. Did you know that they were aliens that had come into the country recently?

A. Well, I knew that they had come from England, yes.

Q. You had Mrs. Brooks' history, I think, this morning, testifying that she had had medical treatment in England did you not?

A. Yes. Oh, I knew they came from England. Dr. Campbell told me.

Q. Had you inquired about whether or not they had had blood tests on entry into the country?

A. No, it never occurred to me.

Q. Doctor, I want to ask you about one more call. There were two calls on Sunday morning, were there not, telephone calls with Mr. Brooks?

A. Yes.

Q. The second call initiated by you or by Mr. Brooks?      A. Mr. Brooks.

Q. Tell me, in substance, what was the conversation?

A. Well, about twenty minutes after our last conversation [1169] on Sunday morning, he called me back and he said, "You have threatened me and will you put it in writing?"

Q. And you replied?

(Testimony of Miles H. Robinson.)

A. Well, I didn't say anything for a minute, and then I said, "Well, that is foolish." Then I hung up on him rather quickly after that.

Q. Nothing more was said?

A. I don't—well, he may have repeated himself a couple of times. I tell you he was yelling into the phone.

Q. Was he agitated and apparently excited from the tone of his voice?

A. He gave me the distinct impression that he was saying this for the benefit of people in the room where he was calling from.

Q. Well, how do you arrive at that conclusion?

A. Well, he was speaking so loudly.

Q. Well, a person might speak loudly if he were agitated or excited, might he not?

A. Yes, but he didn't seem to be so excited. He just said this in a very loud tone of voice as if he was just making an arrangement.

Q. Well, when you said that was foolish, you meant by that what?

A. I meant that the whole business was foolish.

Q. That he should ask you to put it in writing? [1170]

A. That he should ask me to put anything in writing, any time.

Q. Actually, Doctor, didn't you tell him that you would not do so, that you weren't raised that way, or something to that effect?

A. I think I did say that I was not raised that way.

(Testimony of Miles H. Robinson.)

Q. What did you mean by that?

A. Well, I meant that my father always told me, "In general, don't put anything in writing."

Q. I think that is very good advice, Doctor.

Dr. Robinson, do you deny that during the week following the writing of the Edwards' letter on the 30th of September and ending with your conversation with Noel Edwards on Monday morning, the 8th, that during that entire week you were solely and vitally interested in procuring the original of the grievance committee letter?

A. Yes, I certainly do deny that.

Q. You deny that?           A. Yes.

Q. Would your denial also go to the question of receiving the original of that letter?

A. Oh, I was interested in seeing the letter.

Q. And you had expressed yourself as being interested to various members of the Edwards and the Brooks family? [1171]

A. Oh, I think so.

Q. Do you deny that you made repeated demands upon Mr. or Mrs. Edwards, or both of them, to see the letter or to have it?

A. I never made any such demands.

Q. Would your answer be different if I said requests?           A. No.

Q. You deny that?

A. Well, maybe I have to explain.

Q. Go right ahead, please, Doctor.

A. The letter was a condition, became a condition by the end of the week as to whether I would

(Testimony of Miles H. Robinson.)

have anything to do with them, carry on the treatment.

Q. If I understand your statement, then, you say the letter became a condition? You meant the bringing the letter in and discussing it and showing it to you became a condition? A. Yes, it did.

Q. In other words, Doctor, if they would do that, you would go ahead with their case; if they wouldn't do it, you wouldn't, is that correct?

A. Well, I don't think it was quite that definite.

Q. What do you mean by a condition?

A. Well, what I mean is that if they came in and were perfectly frank about this business and weren't concealing [1172] mysterious letters which were criticizing me, that I expected I would take care of them.

Q. During this interim, Doctor, did you go to see the sender of the letter, Mr. Fullerton, and ask him for his statement as to what the letter contained?

A. Well, the letter was pretty plain what it contained.

Q. Well, why were you interested in seeing the Edwards' copy then?

A. Well, as I said before, I wondered, knowing Fullerton's general attitude and behavior and the kind of shifty way he dropped this letter on my desk and ran out of my office on Saturday, I kind of wondered whether he had sent them something a little more special.

Q. Well, let me ask you this question, Doctor: Did you ask Mr. Fullerton what he sent them?

(Testimony of Miles H. Robinson.)

A. I wasn't on too good terms with Mr. Fullerton.

Q. Will you answer my question, please?

A. I don't think I did.

Q. You don't think you did? A. No.

Q. Did you ask Dr. Stevens about it?

A. Well, I wasn't talking to Dr. Stevens much, either.

Q. Will you answer my question, please, Doctor?

A. No.

Q. Your answer is no? [1173] A. No.

Q. Did you phone him or make any effort to contact him regarding the letter? A. No.

Q. Doctor, I ask you now if it is your position that any member of the defendants in this lawsuit or myself had any acquaintance with Mr. or Mrs. Tom Brooks or with Mr. or Mrs. Noel Edwards at any time prior to the 29th day of August, 1950?

A. I know nothing about that.

Q. Is it your position that any of us did know them?

A. Well, I don't think—it seems to me the complaint has an allegation that the defendants—I don't know—encouraged them to make the complaint and encouraged this business.

Q. Well, then, it is your position now that none of us that I have named did any encouraging or procuring of it?

Mr. McNichols: Your Honor, I am going to object to this form of questioning.

The Court: I think this form of question is ob-

(Testimony of Miles H. Robinson.)

jectionable. It isn't for the litigant to say what his legal position is.

Mr. Kimball: I think that is correct.

The Court: In a lawsuit.

Mr. Kimball: I will accept that. [1174]

The Court: You can ask if he has any knowledge.

Q. (By Mr. Kimball): Doctor, do you know that any of us knew any of the parties before August the 28th, 1950?

A. No. At least, as far as I can determine, can think, at this moment, I don't know that any of the defendants knew these people before the day you mentioned. I don't know whether they did or not.

Q. Do you have any reason to believe that any of those persons that I have named of the defendants and myself procured or did anything toward procuring the complaint of Mrs. Edwards, which was made on August the 28th?

Mr. McNichols: Your Honor, I am going to raise an objection. I think he is going into the merits of the legal contentions here.

Mr. Kimball: I would like to find out the merits of this lawsuit, your Honor. I think we ought to know.

The Court: I think if you are basing it on him personally, his personal knowledge, I think——

Mr. McNichols: I will withdraw the objection.

The Court: ——I will permit him to answer. Not whether he has that contention, because that is for his attorneys to determine.

(Testimony of Miles H. Robinson.)

Mr. Kimball: I will limit it as to his knowledge. If I didn't so word it, I should have.

The Court: Yes. [1175]

Q. (By Mr. Kimball): Do you have any knowledge that any of the defendants or myself did any act to procure Mrs. Edwards to file a complaint on August 28th, 1950?

A. Well, it seems to me that the records show that Mr. Fullerton and Mrs. Edwards had a telephone conversation before the complaint was filed.

Q. What shows that?

A. Well, some of the transcripts of these hearings, and so on. It might be the April 22nd, 1951, hearing.

Q. You can't point that out to me right now, though?

A. I really can't. It just sticks in my mind that there was such a phone call.

Q. Doctor, I hand you what has been marked Plaintiff's Exhibit 15 in this action and ask you to examine it carefully. Will you read it aloud, please?

A. (Reading):

"Walla Walla Valley Medical Service Corporation, Drumheller Building"— [1176]

\* \* \*

The Witness: Where do you want me to start?

Q. (By Mr. Kimball): Start with the date, please, September the 30th, at the top.

A. (Reading):

(Testimony of Miles H. Robinson.)

“September 30, 1950.

“Mr. Noel Edwards,  
“225 Southeast 6th Street,  
“College Place, Washington.

“Re: Report of Grievance Committee.

Dr. M. H. Robinson.

Date of Complaint: 8-29-50.

Date of Finding: 9-27-50.

“Dear Mr. Edwards:

“Your complaint against Dr. Robinson has been investigated by the grievance committee and following is their report:

“ ‘Dr. Robinson was questioned regarding the incident and the facts were substantiated with the exception that Dr. Robinson had called the patient’s home several times and was unable to contact the relatives since the child had been taken to another home.

“ ‘The grievance committee feels that it is unfortunate that the dissatisfaction had occurred and feels that some of the [1178] responsibility is probably due to the excitement at the time.

“ ‘The charge of \$1.50, which Dr. Robinson made for the telephone calls and the time taken away from his usual other work, does not amount to very much, whereas the majority of doctors in the community do not charge for telephone calls, there is nothing to prohibit them from doing so, and it can be shown to be justified since a doctor assumes responsibility when he gives advice either personal

(Testimony of Miles H. Robinson.)

or over the telephone. He cannot be expected to assume such a responsibility for nothing.

“ ‘In this case, however, since there was a misunderstanding regarding the prescription, the Grievance Committee feels that the best interests of all concerned should be to drop the matter, leaving the bill of \$1.50 unpaid, especially since the little patient seems none the worse for her experience.’

“Sincerely yours,”

and then there is the signature and typed in “C. E. Fullerton, committee secretary.” Left-hand corner, the secretary’s signature, CEF/amb; cc: Miles H. Robinson, [1179] M.D., Drumheller Building, Walla Walla, Washington.

Q. Thank you, Doctor.

Mr. Sembower: May I ask now that the letter-head be read also?

The Court: Yes, you may do that.

A. The letter is on the stationery here of Walla Walla Valley Medical Service Corporation, Drumheller Building, Walla Walla, Washington. Phones: 5220—5221.

Q. (By Mr. Kimball): Doctor, from the context of the letter and the copy of it which you received, did you get the impression that it was written on the behalf of the grievance committee for the local society?

A. Well, it is signed C. E. Fullerton, committee secretary, and I assumed that was secretary of the grievance committee.

(Testimony of Miles H. Robinson.)

Q. At the top it says "Re: Report of Grievance Committee," does it not? A. Yes.

Q. And in the last paragraph, it says in the second line, "The grievance committee feels that," and so on, does it not? A. Yes.

Q. Did that indicate to you that it was written on behalf of the grievance committee?

A. Well, I don't quite understand what you mean on behalf of. [1180]

Q. Well, what did those three references mean to you, if anything?

A. Well, I just—I am trying to think of the whole situation. Those particular three references certainly meant to me that the grievance committee was involved in this thing.

Q. Now refer to the first paragraph where it says, "Your complaint against Dr. Robinson has been investigated by the grievance committee and following is their report," and all that follows is in quotations and is indented, is it not? A. Yes.

Q. From the first paragraph of the report, is it indicated that you, Dr. Robinson, had been questioned regarding the incident by some member of the grievance committee?

A. Well, it says that.

Q. And that is a fact, is it not, Doctor?

A. Yes.

Q. Dr. Stevens being the person involved. Did it also bring up the fact in this first paragraph that you had made some explanation regarding the several calls that you had made? A. Yes.

(Testimony of Miles H. Robinson.)

Q. And had been unable to reach the mother or the guardian of the child? [1181]

A. Yes. Relatives, unable to contact the relatives.

Q. Now, that came on your conversation with Dr. Stevens, did it not? A. Pardon?

Q. That information probably came from the conversation you had with Dr. Stevens?

A. Well, I had no idea where they got—I mean, we talked about that, but I assumed that the grievance committee had made an independent investigation of this matter with the Edwards.

Q. Doctor, you have shown great resentment over this letter. Would you tell the Court what is your objection to the second paragraph of this letter, starting in “Dr. Robinson was questioned,” and so on? What is your quarrel with that paragraph?

A. Beginning with what words?

Q. The beginning of the report, starting “Dr. Robinson was questioned”——

Mr. McNichols: I object to the question and suggest that counsel qualify it first by asking if he has an objection.

The Court: Yes, I think that should be first, to find out which portion he does object to. Your question assumes he does, he has some objection. He may not have.

Q. (By Mr. Kimball): Doctor, do you have any objection to the contents of this first paragraph of this so-called [1182] report? A. Yes, I do.

Q. Will you state to the Court what your objection is?

(Testimony of Miles H. Robinson.)

A. Well, it says here, "The facts were substantiated."

Q. Is that your only objection?

A. To that paragraph?

Q. Yes.

A. Well, I don't know what they had done with the child. It says here, "Since the child had been taken to another home." My chief objection was simply that I assumed this was Dr. Stevens' conversation with me and it says here, "The facts were substantiated." I don't know what facts he is talking about, but I suppose it is the facts of the complaint, which I had never seen, and he says the facts were substantiated.

Q. All right, Doctor, go on to the next paragraph, please, starting out "The grievance committee feels that it is unfortunate \* \* \*" Do you have any objections to the statements made in that paragraph? A. Well——

Q. Answer yes or no, please.

Mr. Sembower: Your Honor, I wonder if he means, does the question elicit the answer whether he had objections when he read it at first, or does he have objections today? If we could fix the time as to when he has the objection. [1183]

Mr. Kimball: I will fix it back as of that time, if it will be more helpful.

Q. As of the time you received the letter or soon thereafter, Dr. Robinson.

A. Well, it says: "The grievance committee feels

(Testimony of Miles H. Robinson.)

that some of the responsibility is probably due to the excitement at the time.”

I was confused about that, because, responsibility for what? I mean, responsibility for Mrs. Edwards getting excited, or the reason why she got excited, or whoever it was, the aunt.

Q. Well, tying that up with the context above, it says: “The grievance committee feels that it is unfortunate that the dissatisfaction had occurred and feels that some of the responsibility is probably due \* \* \*” Wouldn’t you infer from that the responsibility refers to the dissatisfaction?

A. No, I felt that the responsibility referred to the facts of the complaint and the use of the word “responsibility” sounds as if something had gone wrong and nothing had gone wrong, everything had gone right, and yet he is talking about responsibility for what happened. Well, when things go right, you don’t worry about who is responsible for it.

Q. Referring to the next paragraph, it starts out: “The [1184] charge of \$1.50, which Dr. Robinson made for the telephone calls,” and so on, do you have any disagreement or dissatisfaction—did you have any disagreement or dissatisfaction with the context of that paragraph?

A. Well, it says the charge of \$1.50 does not amount to very much. Wait a minute, “the charge of \$1.50” and “the time taken away from his usual other work, does not amount to very much.” And I was a little sensitive—you are asking why I objected to it?

(Testimony of Miles H. Robinson.)

Q. Yes.

A. I was just a little sensitive to this grievance committee, who knew nothing whatever about the efforts I had made on this child, deciding that what I had done, the time that I took away from my other work, did not amount to very much. They had no idea how much time or how much worry I had over this child.

Q. Well, Doctor, just a moment, please. The sentence is: "The charge of \$1.50, which Dr. Robinson made for the telephone calls and the time taken away from his usual other work, does not amount to very much."

What does that mean to you?

A. Just what I told you.

Q. Do you think that means that it refers to your time or your work, and not the \$1.50?

A. The thing that does not amount to very much, according [1185] to this, is the \$1.50 and the time I took to earn the \$1.50.

Q. Is that the meaning you got from the letter?

A. Yes, it is.

Q. Do you consider this paragraph to indicate that the committee said your services and the time you spent were not worth very much?

A. I just missed the first word?

Q. Do you consider that this paragraph we are referring to, the statement by the committee that your time—

A. And the statement of the paragraph what?

Q. Do you consider that this paragraph—can

(Testimony of Miles H. Robinson.)

you hear me?           A. Yes.

Q. This paragraph we are talking about in the letter, do you consider that that indicated that your services and the time you spent did not amount to very much?           A. Why, yes, I did.

Q. Examining the last paragraph, Doctor, state your objections to that, if you have any.

A. Well, it says here, "There was a misunderstanding regarding the prescription." I object to that because there wasn't any misunderstanding about a prescription. At least—well, I will put it this way: Apparently, they did misunderstand the matter, but—yes, I take that back, that is perfectly—I don't object to that. [1186]

What I object to here is that "the grievance committee feels that the best interests of all concerned should be to drop the matter leaving the bill of \$1.50 unpaid."

Now, I take that to be a recommendation that my bill not be paid.

The second objection that I had was the last phrase. It says: "especially since the little patient seems none the worse for her experience."

Q. What is your objection to that, Doctor?

A. Well, it sounds like she had had a bad experience and I just—it is perhaps more the general atmosphere, the whole thing was patronizing, I felt, and to tack that on the end, it just gives a flavor to it, to my mind, that—Well, put it this way: That last phrase is the kind of thing that you would say if a doctor had done something really bad. Suppose

(Testimony of Miles H. Robinson.)

you said the doctor gave the wrong medicine, but let's not make a fuss about it because the patient is none the worse for this experience. In other words, I felt it was a gratuitous remark in there that just added to the general tone of the whole thing.

Q. Now, Doctor, have you stated all the objections you have to the letter?

A. Well, that is most of them. I think that probably is the main thing. Well, up here it says, "Date of [1187] complaint 8/29/50" and then "Date of finding." It sounds like they were a judicial court that had made a finding in this great matter, and I just kind of felt, I kind of objected to that.

Q. Anything else occur to you, Doctor?

A. Oh, I don't think so.

Q. Did anything else occur to you at the time or soon thereafter?      A. Oh, it might have.

Q. Do you recall now what it might have been?

A. No, I don't.

Q. Dr. Robinson, do you consider that the committee, the grievance committee, had any right to legally fix the liability which any patient might owe you or not owe you by reason of your services?

A. No, I don't think it did.

The Court: May I see that?

(Exhibit handed to Court.)

Q. (By Mr. Kimball): Doctor, then the expression of the committee in this letter did not in your mind determine your right to have the dollar and a half or not, did it?      A. Oh, yes, it did.

(Testimony of Miles H. Robinson.)

Q. Legally?

A. Well, I wasn't worried about it legally, I was worried about the practical effect [1188]

Q. Did you consider the committee had any right to fix the actual liability as to whether you could collect it or not from your patient?

A. Oh, I wasn't worried about legalisms or legal business.

Q. Doctor, will you tell the Court, please, whether or not you consider this letter a disciplinary act by the Walla Walla Medical Society or the grievance committee?

A. Well, when you tell a sick person or, let's say, a patient not to pay a doctor's bill and that telling comes from the secretary of the society on official stationery, I think that the doctor has been disciplined.

Q. And you consider this letter was a disciplinary act of you?

A. Yes, I did. I would like to explain that I didn't care about the dollar and a half, but it was the principle of the thing and, further, it was unprecedented.

Q. Doctor, I hand you what has been marked Plaintiff's Exhibit 16, I believe. It is a letter dated October the 9th, from yourself to Dr. Page. I will ask you, Doctor, is this the first letter that you wrote pertaining to this grievance committee action after you received the copy on September 30th?

A. Oh, I am quite sure it is.

Q. You are quite sure it is?

(Testimony of Miles H. Robinson.)

A. Yes. [1189]

Q. Now, on this date, October the 9th, 1950, that your letter to Dr. Page bears, you had had your visit to College Place, had you not, and seen Mr. and Mrs. Edwards? A. Yes.

Q. And you had talked to Mr. Tom Brooks by that time, had you not? A. Yes.

Q. And you had seen Mrs. Brooks at College Place, had you not? A. That's right.

Q. Now, Doctor, referring to Exhibit 15, may I inquire what you meant in the third paragraph when you said: "I deny absolutely the right of either laymen or doctors to officially censor my financial arrangements with my patients."

A. Yes, I think that that statement needs a little explanation. I was a little hot under the collar when I wrote this letter and what I had in mind was this, that it says the right of laymen to censor me. What was your question?

Q. Well, I inquired as to what you meant when you referred to the fact that you consider that absolutely laymen or a doctor had no right to question your financial arrangements with your patients. Do you find that? [1190] A. Yes.

Q. What do you mean by that?

A. Well, what I meant to convey was this: That if a patient doesn't want to pay a doctor's bill, the best solution is just don't pay it, and I mean what happens then is the doctor just doesn't get his money and, if it is a very serious matter, they can

(Testimony of Miles H. Robinson.)

take it to court if they want to and, otherwise, it works out perfectly well. The patient doesn't pay and is dissatisfied, the doctor loses a patient, and that is a very good way to settle it.

Q. Doctor, you said in this paragraph—I am talking about the third paragraph: “Rather more serious, were it not so ridiculous, is the right of Mr. Fullerton to send letters to my patient stating categorically that certain telephone calls did not take much time from my work and did not amount to very much.”

Do you see that?           A. Yes.

Q. Is that referring to the same paragraph that we were discussing in the letter itself?

A. Yes.

Q. Doctor, by your statements in this letter, did you mean that you did not then consider any doctor or medical society or a committee of a medical society had any right [1191] to inquire or discuss or concern itself about your financial arrangements with your patients relative to fees?

A. Well, I looked in our constitution and bylaws and it doesn't say anything about doctors censuring—I mean anything about the society or any doctor in it censuring a member of the society in regard to his fees.

Q. Well, I am not inquiring about that, I am inquiring now as to whether you consider that that is a proper subject matter for inquiry on behalf of a professional society?

A. Well, I think they can inquire all they want, but officially censuring a man is something else.

(Testimony of Miles H. Robinson.)

Q. Officially censuring as in this letter of September 30th?

A. Well, I think an official letter to a patient telling them not to pay your bill is—I mean I think that letter is an official censuring letter.

Q. You think that the suggestion as to compromise to settle a small matter that the bill not be paid is an official censure?

A. In principle, yes.

Q. You have stated previously that you assume Mr. Fullerton had written a letter as secretary, did you not? I am referring to the letter of September 30th?      A. Yes.

Q. Was not one of the purposes of your letter of October the [1192] 9th to secure the sacking or firing of Mr. Fullerton for his actions in this connection?

A. Well, now, somewhere or other I think that I made the suggestion that this kind of behavior by a layman who knew nothing about a doctor or his charges or anything else was insufferable and it might be a good idea to get rid of him.

Q. Although the letter stated he was signing as secretary of the committee?

A. Well, he signed it, that is all I know.

Q. Well, you knew that he signed it as secretary? Isn't that shown in the letter, Doctor, in the copy you received?

A. Well, Mr. Fullerton was chief factotum, you know. He was everything, he was secretary of the society, secretary of the bureau, secretary of the

(Testimony of Miles H. Robinson.)

secret grievance committee, so I really can't tell you. I mean as a practical matter, I can't say just what capacity he was acting in.

Q. Well, let me read to you this fourth paragraph:

"I am not trying to jump to conclusions, but it seems to me that this letter is typical of the authority which Mr. Fullerton exerts. I believe that it is imperative that all other members of the society be acquainted with the facts in this [1193] case and the principles involved and that his resignation from any official position with our society be arranged at the earliest opportunity."

Was that an invitation on your part to have him fired or for him to be relieved?

A. Well, I don't know just what you mean by an invitation.

Q. Well, I refer to your language in this letter where you stated that his resignation from any position should be arranged at the earliest opportunity?

A. Well, I felt then, as the president of the State Medical Association felt later, that laymen should not be doing this kind of work on grievance committees. They don't know enough to do it.

Q. In a representative capacity, Doctor?

A. In any capacity.

Q. Well, might it be cured by removing that as one of his duties, without firing him?

A. Well, I don't know. Mr. Fullerton was just kingpin down there, and I felt that some of the

(Testimony of Miles H. Robinson.)

other things that he had done and the whole pattern as I was seeing it evolve over the past year or so was a bad thing, and I think this is a somewhat intemperate paragraph written to the president of the society and it is just a little bit stronger, I think, than probably would have been better taste. [1194]

Q. All right, Doctor, I don't want to drag out that point.

The last paragraph on page one, you say:

“So far as the recommendation of this letter to the patient that my bill not be paid, it actually means absolutely nothing to me. The opportunity will doubtless present itself very soon when I can discuss with the parents of the little patient the uncertain guidance they are getting in this letter.”

Do you follow me, Doctor?           A. Pardon?

Q. Do you see that portion?           A. Oh, yes.

Q. This is written on October the 9th, Doctor?

A. Yes.

Q. And at that time you had seen the parents?

A. Oh, yes.

Q. What did you mean when you said the opportunity would soon present itself when you would see and discuss this matter with them?

A. Well, I thought I might talk to them some more about it some time, and I just wanted to let Sam Page know that I felt I had a right to discuss this complaint with the parents.

Q. On the top of page two of this same letter,

(Testimony of Miles H. Robinson.)

did you say, [1195] in part: "And for my part, I will do what I can to keep the thing quiet."

Do you find that?

A. I think you are asking me the meaning of that previous paragraph, and when I said that the recommendation of the letter "means nothing to me," I simply meant that I didn't feel any secret grievance committee could tell a doctor what to do.

Q. Very well. Now, will you go on to the next question, please? Did you hear it? The top of page two.

I will reword it. The first paragraph on page two says:

"I hope it will not become necessary for the society to publicly disclaim the occult workings of this grievance committee which it has elected; and for my part, I will do what I can to keep the thing quiet. But as you can see, the provocation to me is extreme." A. Yes.

Q. What did you refer to when you said you had intended to keep the thing quiet?

A. Well, I was just letting him know that I thought he should do something about this committee and, if he didn't, I would appeal to the members and there would naturally be more of a stir about it. [1196]

Q. By "quiet," you referred then to the action of the grievance committee, not to this particular letter?

A. No, I referred to the whole business of hav-

(Testimony of Miles H. Robinson.)

ing a secret grievance committee and of it acting in this fashion.

Q. And that is what you referred to when you said you would do what you could to keep it quiet?

A. Why, yes, I thought maybe Dr. Page himself could settle it and, if he couldn't, maybe the trustees could settle it, but I was just letting him know that I felt this was an important principle and it should be taken to the society itself, if necessary.

Q. Whom did you send copies of this letter that I have just referred to?

A. Well, to the other trustees, it says here.

Q. And that was on October the 9th. On the 12th, did you write another letter on this same subject?

A. Well, I think that is possible. I got no answer from this one.

Q. I hand you what has been marked Exhibit 20 and I believe is admitted.

A. Yes, I wrote this letter.

Q. Who is that addressed to?

A. Well, it is addressed to "Dear Doctor."

Q. What is the date? [1197]

A. October 12th.

Q. And to whom was it sent?

A. To, I think, all the members of the society.

Q. That would be 42 members as of that date?

A. Oh, I don't know, around that.

Q. Was it also sent to all of the doctors who were at the Walla Walla Veterans' Hospital?

(Testimony of Miles H. Robinson.)

A. I don't know about that, whether it was or not.

Q. They would be included in the 42 members, would they not?

A. I don't think so. I think it adds up to 75 or 80.

Q. I think you are probably right. Probably, if you sent it to just 42, it would be the Walla Walla doctors, would it not?

A. I don't think I would have sent it to them, they have no vote or anything.

Q. And was this letter sent out at or about the date it bears, October the 12th?

A. Well, I couldn't be sure about that. It might have gone out a few days later.

Q. You sent it out in mimeographed form, I believe?

A. Pardon?

Q. You sent it out in mimeographed form?

A. Yes.

Q. And you sent it out before you had had any reply from [1198] your letter of three days earlier to Dr. Page and the trustees?

A. Well, I either had no reply from him or else he just passed the whole matter off. In any case, it was clear that he was going to do nothing.

Q. Well, from what was it clear?

A. My recollection is that I saw him in the course of making rounds or something of that kind, and his attitude was that he wasn't going to do anything about it.

(Testimony of Miles H. Robinson.)

Q. Then you are testifying that you did communicate with him or he with you in the interim?

A. No, all I know is that I just didn't get any response.

Q. In the three-day period?

A. Yes. [1199]

\* \* \*

Q. Dr. Robinson, at the close of the session yesterday I had handed you Plaintiff's Exhibit 20, being a letter from you to "Dear Doctor," dated October 12, 1950. I hand you that again. This was a letter written by you? A. Yes.

Q. Mailed out by you? A. Yes.

Q. On or about the date it bears?

A. Well, it was a few days after the date, I believe, that [1202] it was actually mailed.

The Court: What number is that?

Mr. Kimball: Number 20, your Honor.

Q. And mailed to whom?

Q. That was mailed to the active members of the Walla Walla society.

Q. That would be the same group that you referred to before as being the 42 active members of the local society?

A. Well, it may have been 35. It is approximately that number.

Q. Was this letter sent out by you before you had had any answer to your letter three days earlier to Dr. Page and the board of trustees?

A. I never got any answer to that letter.

The Court: Your answer is yes, then. Go ahead.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Would you examine paragraph two of the letter I just handed you, Exhibit 20, where you said in part:

“What would be your reaction if this letter stated that your medical service did not take much of your time and advised the patient not to pay your bill?”

I assume that you were referring to the letter of September 30th from the grievance committee, is that correct? [1203]      A. Yes.

Q. Again I ask you, Doctor, to tell me what part of the letter of September 30th you referred to at that point when you said what you said?

A The last paragraph. [1204]

\* \* \*

Q. (By Mr. Kimball): There is another reference in this letter of October the 20th that I would like to ask you about, Doctor.

A. You mean October the 12th?

Q. Yes. Paragraph one, the first paragraph of your letter of October the 12th, you said in part:

“Would you like to have an official committee of your medical society write a letter to one of your patients and discuss the quality of your medical service?”

Did you have anything in mind referring to quality that you haven't already testified about concerning this letter of September 30th?

The Court: I think that is a different question. You may ask that.

(Testimony of Miles H. Robinson.)

A. Why, I have nothing to add to what I have already said about the letter yesterday.

The Court: I am not sure what you said about the quality of your service, Doctor.

A. Oh. [1205]

The Court: I know what you said as to your construction, that it indicated that your services didn't amount to much.

A. Let's see—I tried to make clear yesterday, probably not very well, that I felt the whole tone of the letter and the inference in the last phrase where it says, "especially since the little patient seems none the worse for her experience"—

The Court: Don't you think that might have meant the experience of swallowing the pills? Doesn't that mean that to you? I have had difficulty getting your construction there.

If you think that was a reflection on the quality of your service, if that is your answer, I don't want to keep you from answering what you felt about it.

A. What was your question, Mr. Kimball?

The Court: Well, go ahead.

Q. (By Mr. Kimball): Dr. Robinson, my question referred to what you referred to in the letter of September 30th when you said in your letter of October the 12th that it discussed the quality of your medical service, and I want to know what you referred to in the grievance committee letter that discussed the quality of your services?

A. Well, I just had the general feeling that this

(Testimony of Miles H. Robinson.)

letter to [1206] the Edwards was discussing the quality of my service to the Edwards.

Q. Very well. Doctor, in the same letter of October the 12th, Exhibit 20, you said, in part:

“Would you feel better if the executive secretary of the committee informed you of the affair by sending you a carbon copy of the letter?”

Do you consider that was a fair statement, Doctor? A. I don't know what you mean.

Q. Well, to get down to what I am referring to, wasn't it a fact that Dr. Stevens of the grievance committee informed you of the affair and not the executive secretary?

A. Oh. Well, what I meant by that statement was after such a letter had been sent out without warning, I raised the question whether it made it any easier on me or on the doctor to just be handed a carbon copy of what I took to be really a rebuke.

Q. Doctor, paragraph four——

The Court: What was that last statement you read there that he first got notice of it?

Mr. Kimball: The statement in his letter to which I referred, the letter of October the 12th, was: “Would you feel better if the executive secretary of the committee [1207] informed you of the affair by sending you a carbon copy of the letter?”

The Court: Oh.

Mr. Kimball: End of quote.

The Court: All right, go ahead.

Q. (By Mr. Kimball): Doctor, I now ask you to look at paragraph four of your letter of October

(Testimony of Miles H. Robinson.)

12th. What was the basis of your claim there that the lay secretary had the authority from the committee to investigate the complaint and check the veracity of the complainer, and so on? What was the basis of your statement?

A I don't understand your question.

The Court: Read the part of the letter that you had in mind.

Mr. Kimball: Yes, I will. I am reading the fourth paragraph of your letter of October 12th sent to all the doctors in Walla Walla:

“If the patient had a complaint about your work, would you like to have all such complaints cleared through a layman who had authority from the committee to investigate the complaint, check the veracity of the complainer, hold up or continue the matter, and so on?”

Q. And my question was, what was your authority for saying that the lay secretary had such [1208] authority?

A. Well, it says in the letter that he is secretary of this committee and he is the one that is writing this letter criticizing what I did.

The Court: What says in there that he investigated it? Is there anything from that that you concluded that he had the power to investigate?

A. No, your Honor, I merely assumed that he had investigated it since——

The Court: Because he signed the letter and quoted the findings of the committee, is that your conclusion?

(Testimony of Miles H. Robinson.)

A. Well, I just knew that he handled these things and that he was the chief man in everything.

The Court: It wasn't based on this particular letter, then, but on your general knowledge otherwise?

A. Yes, your Honor.

The Court: Go ahead.

Q. (By Mr. Kimball): But didn't you know, Doctor, that Dr. Stevens had also investigated it and talked to you about it?

A. Well, yes, I did.

Q. Why did you not so state in your letter, then, your letter of October the 12th?

A. Well, because I felt it was a joint activity of Dr. Stevens and Mr. Fullerton.

Q. In paragraph six of your letter of October the 12th, you [1209] state that you are enclosing a copy of such letter. Was this the letter of September the 30th that we have been discussing, from the committee? Paragraph six on the first page, Dr. Robinson:

"Enclosed you will find a copy of just such a letter as I have described above." A. Yes.

Q. Was the other letter mentioned in this letter, your letter to Dr. Page of three days earlier?

A. I believe so.

Q. Exhibit 16 in this case and introduced?

A. Well, it is my letter to Dr. Page of October 9th, 1950.

Q. Yes. Doctor, how does your sending of these letters out to 42 members of the society and enclosing the correspondence which you indicate you en-

(Testimony of Miles H. Robinson.)

closed reconcile with your statement in your letter to Dr. Page of three days earlier that you will do what you can to keep the thing quiet?

A. Well, I had no response from Dr. Page so I assumed that he was not going to respond and felt that I would have to take it to the society.

Q. And if you sent the letter to Dr. Page on the day it was written, on the 9th, he probably would have received it the 10th, would that be correct?

A. Yes. [1210]

Q. And this was two days later, the 12th?

A. And, as I said before, my recollection is that I called him up and talked to him about my protest on October the 9th and that he made no response and indicated that he was not going to do anything about it.

Q. Doctor, will you turn to page two of Exhibit 20 and note where you said:

“What the committee is trying to do in my case is enforce a low price in restraint of trade. Despite its fine words about telephone charges, its decision is that the medical service over the telephone should have been free from charge This causes my work as a whole to the patient to be rendered at a lower price,” and so on.

Do you see that?

A. Yes.

Q. Did you have anything in mind in writing that other than you have testified about in criticism of the letter?

A. Oh, I don't understand what you mean.

Q. Well, let me ask you, then, what part of the

(Testimony of Miles H. Robinson.)

letter were you referring to in making this statement when you say what the committee is trying to do?

The Court: What is that statement again?

Mr. Kimball: The statement that I asked the doctor [1211] about is as follows. It is in the second paragraph, it says:

“What the committee is trying to do in my case is enforce a low price in restraint of trade. Despite its fine words about telephone charges, its decision is that the medical service over the telephone should have been free from charge. This causes my work as a whole to the patient to be rendered at a lower price,” and so on.

Q. What part of the letter did you have in mind when you made that charge?

A. Well, the whole purport of the letter is telling them not to pay the bill.

Q. Doctor, will you go to the last paragraph of page two of your letter of October the 12th?

A. Yes.

Q. I will read that to you:

“Aside from the general principles that stand against the actions of this secret grievance committee, the legal aspects must be considered. From a legal standpoint, the committee has publicly and effectively attacked my reputation.”

I ask you about that, Doctor, what did you have in mind when you referred to the legal aspects of the actions of the committee? [1212]

A. Well, they had attacked my reputation.

(Testimony of Miles H. Robinson.)

Q. You considered that the letter to the patient, Mrs. Edwards, was a public attack on your reputation? A. Well, I would say so, in principle.

Q. Doctor, on page three of this same letter, in the second paragraph, please refer to it, you said, in part:

“The immediate result of this attack is that I have lost the trade of seven people in three related families, each of whom I have treated and two of whom have chronic diseases of the utmost severity.”

Dr. Robinson, isn't it a fact that on the day following this letter, you, yourself, wrote to Mr. and Mrs. Brooks stating that you were giving up their cases?

A. Oh. Well, I wrote on the same day to Mr. and Mrs. Brooks, but the point is I knew I had lost them over the week end from the attitude of Mr. Brooks.

Q. On October the 9th, three days before this, hadn't you told Mr. Edwards on the telephone that you were giving up their case?

A. On what date?

Q. October the 9th, three days before this October 12th letter?

A. I started to tell him that I would have to give up the case and I certainly conveyed that idea to him. [1213]

Q. Had you had any communication up until this date from the Emersons or the Lepianes that they had given you up as their doctor?

A. No.

(Testimony of Miles H. Robinson.)

Q. Please refer, Doctor, to the fourth paragraph on page 3 of Exhibit 20, starting out:

“Since the action of this committee and of the executive secretary who signed the letter severely violates our traditional medical freedom and has directly injured my livelihood and reputation, I feel that redress is rightfully mine.”

What did you have in mind in making that statement?

A. Well, I felt that the membership should put a stop to this secret committee and to its activities.

Q. And in paragraph four of the letter, you again state, in substance, your complaint, and you end up with this remark——

A. Paragraph four, where?

Q. Page three, I’m sorry, of Exhibit 20, the last sentence is:

“Lastly, we should abolish this secret grievance committee and elect a committee on ethics specifically instructed to deal only with medical practice and never with [1214] fee complaints.”

Is that the statement you made?

A. Yes, I wrote that.

Q. And did you feel that to be a proper statement of your attitude toward society regulations dealing with doctors?

A. Well, they seemed determined to add another committee to our organization, which, fundamentally, we didn’t need any such committee at all if they would just implement what we already have,

(Testimony of Miles H. Robinson.)

so I thought if they have got to have another committee, let's elect a decent committee.

Q. Now, Doctor, didn't the writing of this letter of October the 12th launch you on your campaign against the grievance committee and your complaints against the committee?

A. Well, I suppose my first complaint against the grievance committee occurred when Dr. Stevens stopped me on the street. Up until then, I didn't know whether the committee was dead or alive.

Q. I didn't express myself clearly. I meant not between you and Dr. Stevens and you and Fullerton, this went to all the doctors? A. Yes.

Q. And by launch, I meant before the grievance committee, before the whole society?

A. Well, I think it did. [1215]

Q. It did. Doctor, I hand you what has been marked as Plaintiff's Exhibit No. 27—it is not admitted yet—and ask you if you know what that is?

\* \* \*

Q. (By Mr. Kimball): Doctor, can you tell me what that is? [1216]

A. That is a letter that I wrote to the AMA.

Q. Dated October 24, 1950? A. Yes.

Q. You say the AMA; to whom was it specifically addressed?

A. Well, it was sent to the legal department.

The Court: If there is matter on there that is not part of the letter and is not material, it should be masked.

(Testimony of Miles H. Robinson.)

Mr. Kimball: Surely. I am simply referring to the letter.

The Court: Yes, all right.

Q. (By Mr. Kimball): This was written approximately, then, twelve days after the last letter we were talking about that was sent to all the members, is that correct? A. Yes.

Q. And you ask in this letter, do you not, for a legal opinion relative to grievance committees and their formation? A. Yes.

Q. And you state in this letter—

Mr. Kimball: Oh, excuse me, I ask for this to be admitted.

The Court: Well, it will be admitted, then. I assume there is no objection.

Mr. Sembower: No, we have no objection.

The Court: Plaintiff's Exhibit 27 will be [1217] admitted.

(Whereupon, the said letter was admitted in evidence as Plaintiff's Exhibit No. 27.)

Q. (By Mr. Kimball): In paragraph two, Doctor, you said:

“Enclosed you will find letters pertaining to the same, including a general letter dated October the 12th, 1950, which I sent to the 42 members of our local society.”

You see that? A. Yes.

Q. Doctor, that is where I got the number 42 and I assume you will conform your recollection to that number now?

(Testimony of Miles H. Robinson.)

A. Yes, that must be correct.

Q. And the enclosures you mentioned were the letters you had written previously to the society?

A. I do not know exactly. Oh, yes, it says, but it says letters, plural. I imagine that is the letter to Page, to Dr. Page, and the letter to the members of October 12th.

Q. Thank you, Doctor. I hand you what has been marked as Plaintiff's identification No. 33——

The Court: That is admitted in evidence.

Mr. Kimball: Oh, yes, thank you.

Q. Doctor, this is what?

A. It is a letter I sent to the members of the society. [1218]

Q. Dated November the 1st, 1950?

A. Yes.

Q. A two-page letter signed by you and sent to the members of the society? A. Yes.

Q. Doctor, I notice in the last part of page one and carrying over to page two that you have enumerated various provisions of the constitution and bylaws of the local society? A. Yes.

Q. Do you find that? Had you at that time, therefore, referred to them and familiarized yourself with them to some extent? A. Yes.

Q. And in the last paragraph of your letter on page two, you said, did you not:

“For the good of the profession as a whole and for the protection of each of us, guaranteed by the constitution of our society, I ask for your opposition to this grievance committee.” A. Yes.

(Testimony of Miles H. Robinson.)

Q. Now, Doctor, I will ask you if just two days after this letter of November the 1st, which was mailed, I believe you said, to all of the 42 members of the local society, did you again write a letter, mimeographed, to all the [1219] doctors in the society dated November the 3rd and identified as Exhibit 35 herein? I will hand it to you.

A. Yes.

Q. And this was written by you? A. Yes.

Q. Mailed to whom? A. The same doctors.

Q. On or about the date it bears, November the 3rd?

A. Yes, within a few days, I would say.

Q. In paragraph two of this letter, you have stated that you thought you were selected as a "special target" for the grievance committee. Do you see that? A. Yes.

Q. Then you go on to say in the same paragraph:

"In the last eight months, its weighty deliberations have produced action against only two other members of the society."

Do you see that?

A. Well, the number 8 has been corrected to 4 on this copy, and I vaguely remember—I seem to remember that I did correct that to number 4.

Q. I'm sorry, Doctor, my copy doesn't show that correction, but if yours does——

The Court: Was that a correction made before it was mailed out, you mean? [1220]

A. Yes, it was, I think. I think so.

(Testimony of Miles H. Robinson.)

The Court: May I see it, please?

A. It was an accidental error in any case.

Q. (By Mr. Kimball): That may very well be. I have a copy you furnished us and you may not have corrected it on your copy.

A. Well, that was probably mimeographed a second time in connection with furnishing it to different lawyers.

Q. What did you mean by your statement, Doctor, that you had been selected as a special target for the grievance committee?

A. Well, I had never heard of any such action by the grievance committee before.

Q. Did you know what action the grievance committee had taken on the other two cases you referred to?

The Court: Four, wasn't it?

Mr. Kimball: I think he said four months, your Honor.

The Court: Let's see——

A. The number of months I had wrong.

The Court: Oh, in the last four months. I misconstrued that. Go ahead. Four months instead of four cases.

A. Well, my recollection is that some time along in here I talked to either Mr. Fullerton or it might have been Dr. Moore or somebody—I rather think it was Dr. Moore—and he said—well, I know that I talked to him once [1221] about this—and he said, “Well, you shouldn't be too upset.” He said they wrote—he didn't say they wrote, he said, “they

(Testimony of Miles H. Robinson.)

changed one of my bills, also." I don't recall him saying anything about a letter being written.

Q. And he was one of the two cases you had in mind?

A. Well, I have learned that since, but I talked to somebody, either Fullerton or Moore or somebody, and learned that there had been two other cases

Q. Did you know the other doctor that was involved?

A. No, I never learned that until the lawsuit began, and then I learned, I think, it was Dr. Carlson and I couldn't tell you for certain just when I learned Dr. Moore had had a case. But I know the record shows that my case was the third case that the grievance committee had.

Q. Did either of these two doctors, if you knew either of them then, state to you that they felt they had been selected for special treatment or a special target by the grievance committee?           A. No.

Q. Did either of them state to you that they had considered the action of the grievance committee disciplinary in nature?

A. Well, they didn't use that word, no.

Q. Well, what words did they use? Did they give that [1222] meaning?

A. They just said that their fees had been corrected, you might say.

Q. In paragraph three of Exhibit 35, please refer to it, Doctor. You refer to the fact that the Edwards family could spread the information and

(Testimony of Miles H. Robinson.)

harm you?           A. Yes.

Q. Did you have any reason to believe that they were doing anything to spread the information or publicize it?

A. Oh, I based that on my experience with the way news travels in a small community, tightly knit community.

Q. Well, Doctor, do you think the news might have traveled partly by these letters you were sending out?

A. Well, certainly traveled to the members of the society. I was interested in doing that. When I say that, I do not mean the news about the Edwards, but the news that this letter had been written about one of my patients.

Q. In seeking your request for a special meeting at or about this time, as indicated in this letter, had you taken this up with the trustees or any member of the board of trustees for a special meeting?

A. I either asked Dr. Page or else I read it in the constitution of the society. I don't know whether it is in the constitution just how many members you have to have. [1223]

The Court: I don't think he understood your question.

Mr. Kimball: I'm afraid I didn't make my question clear.

Q. In this letter of November the 3rd, you are specifically requesting the members to send in requests for a special meeting, aren't you?

A. Yes.

(Testimony of Miles H. Robinson.)

Q. I am asking, had you previously asked the board of trustees to hold a special meeting for you on this complaint you had against the grievance committee?

A. My recollection is that I did and that Dr. Page told me that you have to have nine members to hold a meeting, but I can't say for sure.

Q. Doctor, I hand you what has been marked either identification or Exhibit 37 by plaintiff.

The Court: It is admitted.

Mr. Sembower: What is the date?

Mr. Kimball: Dated November 7, 1950, and addressed to the board of trustees of the Walla Walla Medical Society.

Mr. Rosling: Would it help the Court if we gave the Court carbon copies of these various letters?

The Court: I think it would. It would enable me to follow the testimony more readily.

Mr. Kimball: I think that is a good suggestion.

The Court: This is number 33? [1224]

Mr. Kimball: 37.

The Clerk: 37.

The Court: 37, yes.

Mr. Kimball: Admitted.

The Court: All right, thank you.

Q. (By Mr. Kimball): Dr. Robinson, do you find this to be a four-page letter that was written by you to the board of trustees of the Walla Walla Medical Society? A. Yes.

Q. Was it sent on or about the date it bears?

A. It was sent on that date.

(Testimony of Miles H. Robinson.)

Q. Doctor, the second paragraph on page 1 of this letter, I am talking about the second full paragraph where it states:

“In this complaint, I will show you that the responsible members of this secret grievance committee have in their official capacity disciplined me by means of the aforesaid letter and that this action of theirs was uncalled for, unjust, unethical, malicious, and in flagrant violation of our constitution and by-laws.”

Now, you have listed and enumerated thereafter the various charges you make against the committee and their letter, is that correct?

A. Well, against the committee. [1225]

Q. Doctor, is there anything in these listed charges that you didn't testify to yesterday when you were telling me your objections to the letter? You may look through it to refresh your recollection.

A. Well, I think it is a more complete account.

Q. Well, very briefly, I want to refer to a few items in there, Dr. Robinson.

Under number 1, you state in this letter:

“That ignored the fact that, in addition to uncompleted calls, I talked to the mother of the patient twice at great length.”

First, you advised her what to do, and so on, was that true?

A. Well, I think it was true, because I wrote this within a month or two of when it happened, and yesterday it is five years ago and I certainly

(Testimony of Miles H. Robinson.)

must have talked to her twice. Of course, I thought it was the mother, the woman that I talked to. It was obviously the aunt, or at least that is what they say.

Q. At the time you wrote the letter, your memory was more fresh on the facts and you would presume that was correct?

A. Yes. Of course, I just assumed it was the mother at that time.

Q. In the second numbered charge in your letter of, Plaintiff's Exhibit 37, you state that the Edwards' letter [1226] established the principle that "because a part of the service may have been imperfectly accomplished, none of it should be paid for."

Where did you get that complaint, from the letter of September the 30th? And I will hand it back to you for your examination.

A. You don't have to. The letter states that there was confusion about a prescription, implying that there was some failure to perfectly accomplish the sending of a prescription.

Q. I hand you Exhibit 15, Dr. Robinson, and ask you to read to the Court the part of that letter that substantiates your charge.

A. (Reading): "In this case, however, since there is a misunderstanding regarding the prescription \* \* \*"

Q. And that, in your opinion, substantiates your charge in your letter of November the 7th that it established the principle that because a part of the

(Testimony of Miles H. Robinson.)

service may have been imperfectly accomplished, none of it should be paid for?

A. Well, it takes the whole letter to establish that, but it relates to the matter of the prescription, which is their complaint of the imperfection.

Q. Look at number three of your letter of November the 7th, where you said: [1227]

“The letter to the Edwards emphasized the policy that if a doctor did not include some business for a druggist in his service, the patient does not have to pay the doctor.”

What part of the letter of September 30th would you say justified that charge?

A. Oh, the whole emphasis of the letter on a prescription, when the prescription had nothing to do with the treatment.

Q. Can you point to a specific part of the letter that bears that inference?

A. Well, the word “prescription” in the last paragraph.

Q. Read that, please.

A. It says:

“In this case, however, since there was a misunderstanding regarding a prescription \* \* \*”

In other words, I felt that the letter was emphasizing the subject of a prescription, which it had no right to do, because a prescription was not involved in my treatment, and I am a little sensitive on the subject of wholesale use of prescriptions in the treatment of disease. I feel that it is grossly overdone.

(Testimony of Miles H. Robinson.)

Q. You didn't feel, then, that the letter referred to a misunderstanding about a prescription, and not a prescription itself? [1228]

A. Well, the whole letter is written because of a misunderstanding about a prescription when the prescription is not part of my treatment of that patient.

Q. Very well, Doctor. Let's go on to the fifth charge of your complaint, where you say that the letter was humiliating to you and that Mr. Fullerton had been selected to administer a public rebuke.

What part of the letter are you referring to in that charge?

A. Well, it was humiliating to me to have an official letter written by the secretary of all the medical organizations in Walla Walla criticizing my little bill of a dollar and a half, and——

The Court: What part of the letter constitutes the reprimand? Is that the whole letter?

A. Well, your Honor, I feel that the recommendation that my bill not be paid was the reprimand, and also the statement that the time taken away from my work does not amount to very much. I think I was a little over-sensitive there, but I worried about the patient quite a bit.

Q. (By Mr. Kimball): Doctor, did you have any more to say on that subject?

A. Not really.

Q. Please turn to page three and look at the next to the [1229] last paragraph, where you said:

“Justice also requires that the members of the

(Testimony of Miles H. Robinson.)

committee responsible for the injurious letter be adequately disciplined for their unjust and malicious attack upon me and for their violation of the constitution and bylaws which protect us all.”

Whom did you think should be punished?

A. Well, I didn't know. The members of the committee were secret.

Q. Did you mean the members of the committee, whoever they might be?

A. Well, that is what it says and that is what I meant.

Q. Did you mean Dr. Stevens?

A. Well, yes. I feel that I should be allowed to explain that I was developing what they call a “slow burn,” you might say, on the whole subject of this secret committee, and I knew the society was apathetic in most things and I just thought I would put the case in a strong way.

Q. Thank you, Doctor. I hand you what has been marked Exhibit 38. I am not sure that it has been admitted.

Mr. Kimball: This is Exhibit 38, Plaintiff's Exhibit 38, and I believe it has been admitted. Am I correct?

The Clerk: Yes.

Q. (By Mr. Kimball): This, Doctor, is, I believe, a letter [1230] dated November the 8th, 1950, addressed to Dr. Miles H. Robinson, Walla Walla, and signed by E. L. Henderson on stationery of the American Medical Association.

Who is Mr. Henderson, if you know?

(Testimony of Miles H. Robinson.)

A. Well, he is the president of the AMA.

Q. It is a very brief letter, would you read it, please?

A. (Reading):

“Dear Dr. Robinson:

“I wish to acknowledge your letter of October 30th and also copy of the letter you have sent out to your colleagues.

“Of course, I would not be able to advise you whether or not this violates the constitution of your local medical society, as these constitutions and by-laws differ in various parts of the country.

“I hope that this matter can be settled to the satisfaction of all concerned.

“Sincerely yours,

“E. L. HENDERSON.”

Q. The letter referred to as being acknowledged in this letter, would that be Plaintiff's Exhibit 31 in this action, dated October the 30th, 1950?

A. Yes.

Q. What did you say in that letter? [1231]

A. (Reading):

“Dear Dr. Henderson:

“I am taking the liberty of writing you again because I do believe the action of our grievance committee has grossly violated the constitution of our local medical society. This did not occur to me until after I had written you.

“In the hope that this will meet with your in-

(Testimony of Miles H. Robinson.)

terest and concern, I enclose a letter I am sending to my colleagues here amplifying this viewpoint.

“Sincerely yours, [1232]

“M. H. ROBINSON, M.D.”

\* \* \*

Mr. Kimball: May I approach the bench? This is a copy of the letter.

The Court: Yes, all right. This is 42.

The Clerk: 42.

Q. (By Mr. Kimball): Doctor, have you had a chance to refresh your recollection as to the contents of this letter? A. Yes.

Q. State, in a general way, what information was given to you by the letter itself.

A. Well, it is a long letter and—

Q. Strike the question and I will ask you to turn to page two and the first complete paragraph thereon, which says:

“You do raise one question as to the right of a grievance committee to pass on the question of adequacy of fees charged by a physician. In my judgment, many controversies do arise between patients and their attending physicians over the question of fees, and it seems to me that a question of this sort should be one that would [1234] come within the jurisdiction of a grievance committee.”

Did you agree with that statement when you received it? A. I had—no. [1235]

\* \* \*

(Testimony of Miles H. Robinson.)

A. I did want to say just one word on the original question. I answered no to that question and it is difficult to just say no, and, much as I don't want to dwell on the matter in any way, I just want to point out that I don't feel that we need a grievance committee.

Q. (By Mr. Kimball): Now, Doctor, I am asking you to refer to Exhibit 41. A. Yes.

Q. State briefly what this is.

A. It is a letter from myself to the president of the state medical association, with carbon copies to the other officers.

Q. Dated November 13, 1950? [1236]

A. Yes.

Q. And addressed to Dr. Kenneth L. Partlow?

A. Yes.

Q. He was the president of the state association at that time, was he? A. Yes.

Q. In the first paragraph, you start out by saying:

“Dr. E. L. Henderson, president of the AMA, has written me on November the 1st and advised that I should take up with you the problem of our local secret grievance committee.”

Do you see that, Doctor? A. Yes.

Q. The letter referred to there from Dr. Henderson, dated November 1st, is that the letter that has been marked herein as Plaintiff's Exhibit 32, which I hand you? A. Yes.

Q. Doctor, did you on November the 22nd also write to the trustees of the Washington State Medi-

(Testimony of Miles H. Robinson.)

cal Association, and I hand you Exhibit 48 which is the letter to which I am referring, Plaintiff's Exhibit 48?

The Clerk: What is the number of that one?

Mr. Kimball: 48.

A. Yes.

Q. Referring briefly to Exhibit 48, this is a letter that [1237] was written by you to the trustees of the Washington State Medical Association, is it not?

A. Yes.

Q. Copies are indicated to have been sent to all or other members of the board of trustees?

A. Yes.

Q. Look at the next to last paragraph of this letter on page two, please.

A. Yes.

Q. Where you said:

“I know nothing about the powers of our state society in this sort of thing, but I do hope that some authority exists which can act to prevent a few doctors in our county society here from making a mockery out of our constitution and subjecting the rest of us to the public ridicule and contempt which will result if they drive me into a lawsuit against them.”

What did you have in mind, Doctor, when you wrote that?

A. Well, I had in mind that the courts are the ultimate protection.

Q. Did you have in mind litigation at that time?

A. No, I don't think so. I just had it in mind to point out to the state association—now, this was the

(Testimony of Miles H. Robinson.)

day after they held that four and a half hour hearing in [1238] Dr. Ralston's office which I attended and you are asking me what I had in mind. That was a terrible experience. I wasn't given a chance to tell my side of the story and the hearing was very unfair and, consequently, I thought, well, this is serious and I may have to seek the protection of an impartial body.

Q. Doctor, do you have anything you want to get rid of there? I hand you what has been marked, I believe, Plaintiff's Exhibit 50 herein, and I believe it has just been identified.

The Clerk: It is not an exhibit.

Q. (By Mr. Kimball): It is Plaintiff's identification 50, and I ask you, Dr. Robinson, if you can tell me what that is?

A. Oh, that is a letter from myself to other members of the Walla Walla society.

The Court: What one is that, the last one?

Mr. Kimball: I ask that it be admitted. It is Plaintiff's Exhibit No. 50, a letter dated December 7, 1950, from Dr. Miles H. Robinson to "Dear Doctor."

The Court: Oh. All right, it will be admitted, then, Plaintiff's Exhibit 50.

(Whereupon, the said letter was admitted in evidence as Plaintiff's Exhibit No. 50.) [1239]

Q. (By Mr. Kimball): Dr. Robinson, you wrote this letter? A. Yes.

(Testimony of Miles H. Robinson.)

Q. Was that mailed at or about the date it bears?      A. Yes.

Q. And whom was it mailed to?

A. To the other members of the Walla Walla society.

Q. That is the same group of 42 that you have previously mentioned?      A. Yes, I think so.

Q. Now, Doctor, in regard to this, I believe you sent some exhibits or some enclosures with it as indicated by the context of the letter?

A. Where is that indicated?

Q. Well, among other places, in the second paragraph where you say, "Enclosed is a copy of the charges which I have filed," and so on.

A. I can't find that in the second paragraph.

Q. Are you looking at the same letter, December 7th?      A. Yes.

Q. The second paragraph on page one starts out, "Enclosed is a copy \* \* \*"

A. Oh, mine doesn't say that.

Q. Maybe I am on the wrong—

The Court: Second paragraph?

Mr. Kimball: We have got a little confusion here, your [1240] Honor. We have two letters of the same date—

Mr. McNichols: They are not the same letters, are they?

Mr. Kimball: Apparently not.

Mr. Rosling: Mr. Kimball, may I suggest that possibly the one that I handed to the Court, which

(Testimony of Miles H. Robinson.)

was my copy, I believe is an original. It contains the handwriting of Dr. Robinson on it.

Mr. Kimball: Well, if we find it agrees with either one of these, but we have two that don't match on the first page, Mr. Rosling.

Q. Dr. Robinson, maybe we can solve this. The Exhibit 50, which has been admitted here, can you tell from examining it whether it is the page one of the letter of December 7th that you actually mailed out, or is it as shown in the mimeographed copy that I hand you marked Defendants' Exhibit 24 initialed Green?

The Court: I will take a ten-minute recess at this point.

Mr. Kimball: Yes, your Honor.

(Whereupon, a short recess was taken.)

The Court: All right, have you ironed out the discrepancy in the documents here?

Mr. Kimball: Well, we will try to.

Q. Doctor, I hand you again what has been marked Plaintiff's [1241] Exhibit 50, and referring to the first page of that exhibit, have you had a chance during the recess to check this with other copies that counsel have and that have been handed to the Court? A. Yes.

Q. What is the discrepancy, if any, on that?

A. Well, this appears to be a copy in which a paragraph has been left out, probably because this copy was made years later.

Q. Doctor, I hand you another copy of what

(Testimony of Miles H. Robinson.)

purports to be a letter of the same date from you, dated December 7, 1950, to "Dear Doctor," and ask you to examine that and see if that is not a copy of the actual letter that you sent out?

A. Well, that appears to be a copy of the actual letter and it has the missing paragraph which I wrote.

Q. And examine the other documents with that and see if they are the enclosures that you refer to?

A. Well, this letter of December the 7th carried with it an enclosure of the letter of November 7th which I directed to the trustees of the Walla Walla society.

Q. My question is, are those enclosures that are referred to in the letter of December 7th?

The Court: Are they the right enclosures, is that what you mean, the ones that were enclosed? [1242]

Mr. Kimball: Or copies of them.

A. Well, there were several enclosures and I will have to look through this quickly.

Q. Go right ahead.

A. The second enclosure, as stated on page two, is the copy of the President's letter to me, which was this enclosure of November 10, 1950.

The Court: If it is going to take so much time to check these, why can't you take the first page and substitute the one that you now say is all right and then put in the rest of it that has been submitted by the plaintiff himself and identified? I shouldn't think it would take so long whether this is 50 or not that had been put in in the pretrial.

(Testimony of Miles H. Robinson.)

Mr. Kimball: That would be agreeable except the one put in in the pretrial carried no enclosures; this one does.

The Court: Oh, I see, you didn't have any enclosures on the one presented?

Mr. Kimball: No, your Honor.

The Court: I see. All right, go ahead, then.

A. I think I can——

The Court: I thought it was supposed to be just the same.

A. I think I can get it in just a minute here. There are two other enclosures, I just wanted to be sure that they [1243] were really enclosed at the time. There are two other papers, rather, Mr. Kimball has handed me here.

The Court: Well, the Page letter is a copy of the document in evidence, isn't it?

Mr. Kimball: Yes.

The Court: There shouldn't be any great difficulty about that.

A. I believe the document that was submitted did not carry with it the enclosures which Mr. Kimball just handed to me here and that that is what was missing, as well as this missing paragraph in the first page. I am now able to say that a third enclosure is the first page of the Brooks complaint. There is one more here. And I believe that the last paper that Mr. Kimball has handed me here, which is page 5 of the Brooks complaint with certain portions cut out with a pair of scissors, was also enclosed with this letter of December the 7th.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): In the form it is with the cutout in? A. Yes, I remember that.

Q. Well, then, Doctor, can you say that the group of papers——

The Court: How about the November 7th letter of Dr. Robinson to the board of trustees?

A. Yes, your Honor, that was also an enclosure.

The Court: All right.

Q. (By Mr. Kimball): Can you say that all those constitute [1244] the enclosures and the letter as was sent out by you on or about December 7th?

A. Yes, all that I have mentioned.

Q. And the Exhibit 50 that has actually been admitted is not a true copy of the letter or the enclosures? I am not inferring anything wrong by that. A. Yes, that is right.

Mr. Kimball: Could we substitute, possibly——

The Court: Yes, withdraw that one and substitute the other one.

Mr. Sembower: Your Honor, the difficulty on substitution is this: When we subpoenaed the documents, they were supplied by the defendants and microfilms were made of them and then these copies were dictated off of those microfilms. Now, on the original copy, which was supplied by the defendants, there appeared handwriting notes placed on the copy by Mr. Fullerton and these were added to the exhibit which was supplied.

Now, we are pleased to withdraw the exhibit we have if defendants could supply again the original which we microfilmed in the first instance, because

(Testimony of Miles H. Robinson.)

we feel that Mr. Fullerton's notes may be material. When they submitted the exhibit at first, they classed it as number 1, not questioning the authenticity of those marginal notations, so that is the reason we left it—— [1245]

Mr. Kimball: May we suggest we leave it in, then, and mark the new one 50-A?

The Court: Yes, I think so.

Mr. Kimball: That is all right.

The Court: Leave that one in and mark this one 50-A. Both 50 and 50-A will be in evidence?

Mr. Kimball: I was only asking about 50-A. If 50 is in, I have no objection.

Mr. Sembower: No objection.

The Court: 50-A will be admitted, then. How about No. 50, is it just to stand as an identification so far?

Mr. Sembower: Yes.

The Court: All right, I just want to be sure. Shall we show it now as an identification?

Mr. Tuttle: I'm sorry, does 50 go back?

The Court: No, it just stays as an identification unadmitted, and 50-A is admitted in evidence.

Mr. Kimball: Mr. Clerk, here is 50-A, which should be marked admitted, I believe.

The Court: Yes.

(Testimony of Miles H. Robinson.)

(Whereupon, the said document was admitted in evidence as Plaintiff's Exhibit No. 50-A.)

Q. (By Mr. Kimball): Doctor, I hand you Plaintiff's Exhibit 55— [1246] A. Yes.

Q. ——a letter dated December the 14th, 1950, addressed to you, Dr. Robinson, and signed by Sam R. Page. Do you have that? A. Yes.

Q. It is a short letter, please read it.

A. (Reading):

“Dear Dr. Robinson:

“At a meeting of the board of trustees of the Walla Walla Valley Medical Society, held on December 13th, 1950, the charges presented in your letter of November 7th, 1950, addressed to the above board were carefully considered in detail, and it was the unanimous opinion of the board that the charges were without merit.

“Very truly yours,

“SAM R. PAGE,

“Chairman, Board of Trustees, Walla Walla Valley Medical Society.”

Q. That refers, I believe, to a meeting of the board of trustees of December the 13th, Doctor.

A. It says so, yes.

Q. I read to you from Defendants' Exhibit 447, which has been admitted, the minute book of the society, minutes of the meeting of the board of trustees of the Walla [1247] Walla Valley Medical Society, held December 13th, 1950:

(Testimony of Miles H. Robinson.)

“Members present. Doctors Page, Tompkins, Lange, and Ralston. Absent: Dr. Keyes.

“Following extensive discussion of the complaint of Thomas R. Brooks reflecting upon the professional conduct of Dr. Miles Robinson, and the answer of Dr. Robinson to the complaint made, on motion duly made, seconded and unanimously carried, it was \* \* \*”

And a resolution follows.

Then in the last paragraph of these minutes, it is said:

“The charges made in the letter of Dr. Miles H. Robinson to the board of trustees of the Walla Walla Valley Medical Society, dated November 7, 1950, were carefully considered in detail, and it was the unanimous opinion of the board that the charges were without merit.

“SAM R. PAGE,

“President.”

Did you know of the action of the board of trustees as indicated by those minutes?

A. Well, this letter to me states that action.

Q. Do you have any reason to believe that that was not the action taken by the board?

A. Well, I only know what those minutes [1248] state.

Q. Very well, thank you.

A. I do have some reason to question the authenticity of that meeting.

Q. I just asked what you knew, Doctor, and I think you answered that question.

(Testimony of Miles H. Robinson.)

You did consider the letter you have just referred to, the letter of December the 14th, as a communication to you from the board showing what action they had taken?           A. Yes.

Q. Dr. Robinson, I hand you what has been marked Plaintiff's Exhibit 61 herein——

The Court: What was the date of those minutes, December the——

Mr. Kimball: December the 13th, 1950.

The Court: The letter was the 14th?

Mr. Kimball: Yes, your Honor.

Mr. McNichols: Mr. Kimball, what is the date on 61?

Mr. Kimball: It is dated December 22nd, 1950.

Q. Doctor, this is a mimeographed copy of a letter, is it not?           A. Yes.

Q. Written by you?           A. Yes.

Q. To the members of the Walla Walla Valley Medical Society? [1249]

A. That's right.

Q. Was it sent out by you at or about the date it bears?           A. Yes.

Q. To whom was it mailed?

A. To the people to whom it is addressed.

Q. Would that be substantially the 42 members of the Society?           A. Yes.

Q. Paragraph one of this letter, Doctor, I notice that you have some criticism of the bylaws proposed in connection with the grievance committee.

A. I don't see anything about the bylaws.

Q. (Reading):

(Testimony of Miles H. Robinson.)

“The outline of procedures for our grievance committee show quite clearly that this committee is intended to be the court in which alleged misbehavior by a physician will be processed and in most cases settled by giving the patient a written criticism favorable, non-committal, or unfavorable to the doctor.”

What were you referring to there?

A. I say I see nothing in there about the bylaws.

Q. Well, maybe I misspoke the intent. You say the outline of procedures; what procedures were you referring to?

A. Well, that is that set of mimeographed rules and regulations of the grievance committee which Dr. Stevens [1250] distributed.

Q. Oh, I see.

A. Around to the members on the meeting of December the 14th.

Q. Proposed rules for the grievance committee?

A. Yes.

Q. Thank you. Now, in the second paragraph you say “If the criticism is unfavorable, it obviously constitutes discipline of the doctor.”

A. Yes.

Q. That was your view at that time?

A. Well, that has been my view at all times.

Q. Well, Dr. Robinson——

A. I would like to explain that.

Q. You may.

(Testimony of Miles H. Robinson.)

A. That answer, Mr. Kimball. My theory is very simple. I feel if you take candy away from a baby, you discipline him, and if you take a doctor's fees away from him, you discipline him.

Q. And you say here that if the criticism is unfavorable by a committee, that is discipline?

A. Well, implicit in that remark is my experience with this grievance committee, writing an official letter to my patient telling them not to pay my bill.

Q. Well, Doctor, how do you characterize the view of any [1251] person that disagreed with you that this letter was disciplinary, the letter of September 30th?      A. I don't understand.

(The question was read.)

A. How would I characterize some other view?

Q. Any view that thought it was not disciplinary?

A. Well, I think that view is incorrect and wrong.

Q. Doctor, did anyone tell you that besides yourself, or was that formulated on your own opinion?

A. Tell me what?

Q. That they considered the letter of September 30th was disciplinary?

A. You mean did anyone else tell me that it was disciplinary or——

Q. Yes; or did you formulate that from your own opinion?

A. Oh, I read the letter and formulated that entirely on my own, in my own mind, on my own opin-

(Testimony of Miles H. Robinson.)

ion. I had no advice from anybody to tell me that.

Q. Did you have advice from anyone telling you that they thought it was not disciplinary, anyone in a position to have an educated opinion?

Mr. McNichols: I think that is an impossible question to answer, educated opinion.

The Court: I think it should be made more specific, perhaps, I don't know what it refers to. [1252]

Mr. Kimball: Well, I will ask the question this way:

Q. Doctor, have you ever, for example, discussed this letter of September the 30th and whether or not it was disciplinary with Dr. Campbell?

A. I think I did discuss it with him.

Q. Well, what did he tell you about it as far as his opinion was concerned?

A. Well, he wrote me that letter which has been put into evidence here, I think of October the 24th, in which he said——

The Court: The question was what did he say to you about it? A. Well, I didn't——

The Court: I think we should try to answer the questions, get along faster, I think. Wasn't that the question you asked?

Mr. Kimball: Yes; that is all right.

The Court: What did Dr. Campbell say to you? Did he say anything to you about it?

A. Well, your Honor, I didn't talk to him personally, I only had the letter.

The Court: Oh, I see.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Did you write——

A. He didn't say anything, then, is the answer.

Q. Did you write to him about it? [1253]

A. Yes.

Q. And did he write to you in reply?

A. Yes; he did.

Q. I think you referred to the letter of Dr. Campbell dated October the 24th, 1950?

A. Yes.

Q. Marked herein as Plaintiff's identification 28. [1254]

\* \* \*

Q. (By Mr. Kimball): I ask you, Dr. Robinson, to please read to us the contents of this letter starting in a paragraph near the bottom of page one.

A. (Reading): [1255]

\* \* \*

Q. (By Mr. Kimball): Thank you, Doctor. Doctor, did you receive advice from anyone else relative to the question of whether or not the letter of September the 30th from the grievance committee was disciplinary in nature?

A. No; I am sure of that.

Q. I hand you Exhibit 49 and ask you what it is?

A. Well, now, I take that back. I received several letters from the AMA. I was thinking of other doctors like Dr. Campbell.

Q. Well, did you consider the AMA a person that would have an advised knowledge on the subject?

(Testimony of Miles H. Robinson.)

A. Well, I thought the AMA was the proper authority to interpret our laws, our constitution and bylaws, and in fact it states that the Judicial Council of the AMA is the supreme authority on the constitution and bylaws of all organizations beneath it.

Q. Well, would you tell me what the exhibit is that has just been handed you?

The Clerk: I didn't get that number.

The Court: 49.

Mr. Tuttle: That is not in yet.

The Court: No; it is not admitted.

Mr. Kimball: I will offer it, your Honor. It is [1260] Plaintiff's Identification 49.

The Court: It will be admitted. The date is November 28th, 1950.

Mr. Kimball: November 28, 1950.

(Whereupon, the said document was admitted in evidence as Plaintiff's Exhibit No. 49.)

Q. Please read the letter, but delete the comments that apparently are in your own handwriting on the side.

A. Well, since you mentioned the comments—

Mr. McNichols: May I see the letter just a moment, Doctor?

A. This is the letter from Mr. Holloway, head of the legal department of the AMA to myself.

Q. Would you read it, please?

A. (Reading):

(Testimony of Miles H. Robinson.)

“Dear Dr. Robinson:

“I have received your letter of November 14th in further reference to the activities of the grievance committee of your local medical society and the situation in which you are involved.

“Certainly you have a perfect right to appeal to your medical society against any action that has been taken by the grievance [1261] committee, and it seems to me that is a proper way in which the matter can be adjusted. It is not my understanding of a function of a grievance committee that it has jurisdiction to discipline a member. The matter of disciplining is controlled by the provisions of the constitution and bylaws of the medical society, and I agree with you that the procedures outlined in such documents should be followed faithfully.

“The question that arises in my mind is whether the action taken by the grievance committee in your case can be said to be a disciplinary action. There can be read into it, I further agree, an implied criticism of your conduct in the case out of which this matter arose. To repeat, however, I believe that the disagreement between you and the grievance committee can properly be brought before your local medical society, and I hope the situation can be adjusted amicably.

“Sincerely,

“J. W. HOLLOWAY, JR.”

Q. Did you receive that letter a few days after it was dated?

(Testimony of Miles H. Robinson.)

A. I couldn't tell you exactly. It probably came by regular mail, might have been three days. [1262]

Q. You did receive it, though? A. Yes.

Q. Incidentally, Doctor, I forgot to ask you, did you write a letter dated November 19, 1950, to all the doctors of the society on the subject of the grievance committee? I hand you such a document marked Exhibit 46.

Mr. Tuttle: That is an identification.

Mr. Kimball: Identification 46, Plaintiff's Identification 46.

A. Yes.

The Court: Do you wish to offer that, Mr. Kimball?

Mr. Kimball: I would like to have that offered, please.

The Court: Exhibit 46 will be admitted.

(Whereupon the said letter was admitted in evidence as Plaintiff's Exhibit No. 46.)

Q. (By Mr. Kimball): And, Doctor, didn't you send to J. W. Holloway, Director of the legal department of the AMA, a summary of your objections against the local grievance committee on or about December the 26th?

A. Well, I wouldn't remember the dates, but all the letters, I believe, are here.

Mr. Kimball: I don't believe this has been marked.

Q. I will just show you the letter and ask you if you sent [1263] it? A. Yes; I think so.

(Testimony of Miles H. Robinson.)

Mr. Kimball: This has not been marked. I would like to have it marked.

The Court: All right, it may be marked the next number.

Mr. Sembower: No objection.

Mr. Kimball: There is no objection.

The Clerk: It will be Defendant's Exhibit 510.

The Court: It will be admitted, then.

(Whereupon, the said letter was admitted in evidence as Defendant's Exhibit No. 510.)

Q. (By Mr. Kimball): Please read the letter. It is very short.

A. (Reading):

"Dear Mr. Holloway:

"I impose upon your time once again, and enclose a copy of a summary of my objections to our Grievance Committee. If for no other reason, you may be interested in my remarks for the parallel to recent and current federal legislature aimed at cleaning up the food situation.

"Sincerely yours,

"M. H. ROBINSON, M.D." [1264]

Q. Thank you, Doctor. Was this letter that you have just read, Doctor, acknowledged by Mr. Holloway?      A. I couldn't tell you.

Q. I hand you a letter for purposes of refreshing your recollection.

A. Well, this could be an acknowledgment because it is——

(Testimony of Miles H. Robinson.)

Q. You don't have to testify about it, I asked you to refer to it.

Mr. Kimball: I ask that this be marked, and if there is no objection——

Mr. Sembower: No objection.

The Court: All right, Defendant's Exhibit 511 will be admitted, then.

Mr. Rosling: What is the date, please?

Mr. Kimball: The letter is dated January the 19th, 1951.

(Whereupon, the said letter was admitted in evidence as Defendants' Exhibit No. 511.)

Q. Just read the contents of that, please, Doctor.

A. (Reading):

“Dear Dr. Robinson:

“This is merely to acknowledge with thanks your recent letter and the additional material concerning the controversy with respect to the [1265] operations of the grievance committee of the Walla Walla Valley Medical Society.

“As Dr. Henderson indicated to you, this is a matter that must be initially considered by your local medical society and your state organization. I am, however, glad to have for our files the additional information that you forwarded to me.

“Again, may I express the sincere hope that the controversy can be satisfactorily adjusted.

“Sincerely yours,

“J. W. HOLLOWAY, JR.”

(Testimony of Miles H. Robinson.)

Q. Doctor, I hand you what has been marked Plaintiff's Exhibit 83.

Mr. Kimball: Is that admitted?

Mr. Rosling: Yes.

The Clerk: Yes.

The Court: It has been admitted.

Q. (By Mr. Kimball): What is that, Doctor?

A. A letter from myself to Dr. Rownd, secretary of the grievance committee of the state medical association, dated April 9, 1951.

Q. I am a little ahead of myself. I hand you Plaintiff's Exhibit 67 and ask you what that is?

A. Registered letter from Dr. Rownd to myself dated March [1266] 14, 1951.

Q. Will you read that, please?

\* \* \*

Q. Did you receive that letter, Dr. Robinson?

A. Yes.

Q. At or shortly after the date it bears?

A. Yes. [1267]

Q. I will ask you, Doctor, if this last letter you read from Dr. Rownd, who signed as secretary of the grievance committee, did he not? A. Yes.

Q. Was not an acknowledgement of the complaint that you had filed November 13th and 22nd of your charges against the local grievance committee? A. No.

Q. It was not. Now I will ask you to examine 83, which I inadvertently handed you a moment ago out of order, and tell the Court what is that letter?

(Testimony of Miles H. Robinson.)

A. A letter dated April 9, 1951, from myself to Dr. Rownd.

Q. To whom did you address it?

A. Dr. Rownd, Secretary, Grievance Committee, Washington State Medical Association.

Q. And how did you start out?

A. (Reading:)

“Dear Dr. Rownd:

“Your letter of March 14th——”

Q. Excuse me, is that the letter that you just read? A. Yes.

Q. Exhibit No. 67 herein. All right, go ahead, excuse my interruption. [1268]

\* \* \*

Q. Thank you, Doctor. Now, the part of the letter where you refer to the fact that you are correcting part of the transcript of November the 21st, you remember reading that? A. Yes.

Q. That transcript, is that Exhibit 243 or 244 in this action?

Mr. Kimball: May I have that, please?

The Clerk: 244?

Mr. Kimball: 243 and 244.

The Court: There are really three of them, aren't there—242, 243, 244?

Mr. Kimball: I think I would settle for two.

The Court: There are three of them mentioned, all records of hearings before the trustees.

Mr. Kimball: These will serve my purpose, your Honor.

(Testimony of Miles H. Robinson.)

The Court: Yes, all right.

Q. (By Mr. Kimball): Dr. Robinson, I show you 244 and 243 and ask you if those are the transcripts referred to in the letter you just read, Plaintiff's Exhibit—

A. Exhibit 244 is the one that I referred to in the letter.

Q. Fine, Doctor. Do you have a copy of the Exhibit 244 as corrected by you?

A. There were some corrections. [1273]

Q. If you can answer my question, I would appreciate it, Doctor. I asked, do you have a copy of the corrected transcript?           A. Yes.

Q. Is it in court?           A. I don't know.

Q. Has it ever been shown to defendants?

A. I don't know that.

Q. Where is it?

A. Well, I have—I can't answer your question because the transcript was never corrected on the face of it, but I compiled a four page list of corrections by page and line. [1274]

\* \* \*

Q. Did you send a copy of your compilation of corrections to the state officers?

A. Well, that letter that we were talking about mentions [1275] enclosing some corrections.

Q. That is, the letter of April the 9th from you to Dr. Rownd, Exhibit 83?

A. Well, I would have to see it to be sure.

Q. Well, I will just put it this way, your letter

(Testimony of Miles H. Robinson.)

of April the 9th, or thereabouts, that you were talking about just before lunch?

A. I would just have to see it, Mr. Kimball, to give any opinion.

Q. Doctor, I hand you Exhibit 83 and ask if that is what you referred to?           A. Yes.

Q. They are not attached to the exhibit?

A. No.

Q. Dr. Robinson, I hand you what appears to be the original of that letter, which you hold the exhibit being a photostatic copy with a lot of attached documents. Would you leaf through those and see if that appears to be your original letter that you sent?

A. The letter is the letter that I sent, but I am puzzled over the enclosures which are stapled to it. I perhaps——

Q. Well, as quickly as you can, will you look through it and see if those are the enclosures you sent?

A. It says here: "I enclose all material subsequently [1276] prepared on disputes in question," and that is subsequent to the 22nd of November. Well, now you have in here the complaint to the bar association and I don't recall really whether that was sent to them. I couldn't tell you if that is so. That was the complaint against you, Mr. Kimball, and I don't recall sending that to Dr. Rownd.

But it does include here five pages of preliminary corrections to the transcript of the November 21st hearing and other papers in the controversy which

(Testimony of Miles H. Robinson.)

I may have sent him, but I couldn't tell you now. It doesn't say on the letter just which ones were sent.

Q. And you can't say whether or not they were enclosed?      A. I really cannot.

Q. Do they refresh your recollection that they might have been sent with that letter as enclosures?

A. Yes, they might have been, uh-huh. [1277]

\* \* \*

Q. (By Mr. Kimball): Dr. Robinson, in sending this letter and its enclosures, whatever they were, with particular reference to the correction list that you sent regarding the transcript of the November 21, 1950, hearing, did you have a copy of the transcript at the time, and I am referring to Exhibit 244, the transcript of this hearing that is in this case, but which refers to the meeting of November the 21st? 242?      A. May I see the letter?

Q. Surely.

A. By which you are dating your question?

Q. I hand you 83-A.

A. Well, my recollection is that this transcript was sent to me about one month after the meeting which it reported and the records will show that. It came, I think, in December of 1950.

Q. But you did have a copy, was my question?

A. I had received a copy.

Q. And you had a copy at the time you made these corrections?      A. Oh, yes.

Q. What was your purpose in sending this transcript, or the corrections that they referred to, to the state [1279] grievance committee?

(Testimony of Miles H. Robinson.)

A. I would like to see the letter from the state grievance committee to see whether he requested something I don't know.

Q. Can you tell me about when——

A. I don't have it here. It was the March 14th letter.

Mr. Kimball: I think that is 67.

Mr. Rosling: That is 67.

Q. (By Mr. Kimball): Would this be 67 you request?

A. Yes. Well, he says here: "Please bring with you any pertinent information in addition to the material you have already sent." And in my letter here, I say: "I enclose all material subsequently prepared."

Was your question why did I do this?

Q. Yes, why did you send it to him?

A. Well, he is asking for more material and so I sent him more.

Q. Very well. My question is this, did you intend that they should use the material that you sent them in connection with the controversy referred to in the letter of March 14th?

A. Well, I sent them the material, as they had asked me to do. I assumed that they would probably use it.

The Court: Asked you to bring it, rather than send it? Doesn't the letter request that you bring any [1280] additional material to the hearing with you? A. You are right, your Honor, it does.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): And you sent it instead of bringing it, actually, isn't that right?

A. Yes, I did.

Q. Dr. Robinson, did you show the trustees of the local society the corrections that you had compiled?

A. I don't believe I did, but I couldn't say for sure.

Q. Now, at the top of Page 2 of Exhibit 83-A or 83, as you may choose to refer to it, you have said:

“Needless to say, the corrections which I enclose herewith are an attempt only to correct Miss Curts' errors, so as to render the report of the hearing reasonably intelligible, and to point out her omissions as I recall them. These omissions, by the way, can usually be proved by the context, in that a subsequent referring remark is found to have nothing earlier to which it refers.”

Dr. Robinson, was it your impression that with the corrections you sent the state grievance committee, that the transcript, No. 243 herein, was a reasonably correct recording of what happened at that meeting?      A. No.

Q. With the corrections, it was not? [1281]

A. That's right.

Q. Why did you send it to the state grievance committee, then, Doctor?

A. Well, I think you ought to read the next paragraph here. It says:

“With respect to the perversion of facts which Brooks and his family have been encouraged to

(Testimony of Miles H. Robinson.)

present, the corrections mentioned are not concerned."

And I spent hours and hours and days——

The Court: Didn't you mean by that that the Brooks weren't telling the truth at the hearing? That didn't apply to the correctness of the record, did it?

A. Oh. Yes, that is true.

The Court: I like to think that I can give English the meaning to which it ordinarily has. If you have a different version of it, though, I want you to let me know.

A. Oh, I probably didn't understand Mr. Kimball's question.

The Court: Well, all right, go ahead.

Mr. Kimball: I think the question has been answered sufficiently.

The Court: All right.

Q. (By Mr. Kimball): Doctor, in the corrections you sent to the state grievance committee, did you make the correction of the "he" to the "I" that was referred to in [1282] your testimony earlier—"He jumped the gun" or "I jumped the gun"? A. Yes.

Q. So that they had the benefit of your view on that correction?

A. Well, I don't know, I made the correction.

Q. You sent it to them, didn't you, Doctor?

A. Yes.

Q. Well, that answers my question.

Doctor, I notice in the third paragraph of your

(Testimony of Miles H. Robinson.)

letter of April the 9th, on the second page, that you acknowledge that the state grievance committee is aware of the material which you have forwarded to them on November 13th and 22nd. Do you follow me, Doctor?       A. Yes.

Q. I notice also that you mention in this paragraph: "Included among the latter is my summary for use in court if I am driven to this extremity."

A. Yes.

Q. "This has not been distributed to anyone except an attorney here," and so on. Do you see that?

A. Yes.

Q. Doctor, where is the copy of this enclosure referred to as your summary to be used in court? Is that a part of those enclosures? [1283]

A. Yes.

Q. And I will ask you if that is the same document or a copy which has been marked here as Defendants' 474 for identification?

A. Well, this is a six page copy of 474 that you are giving me here and, while it is mimeographed, I have never seen this nor prepared it, so it may differ to some extent from my copy which I hold here.

Q. Which is enclosed?       A. Yes.

Q. Very well, I will accept your version of that. I just wanted to know if it was the same document that had been marked.

The Court: One of the enclosures, then, in this present—is that 83-A?

Mr. Kimball: A, yes, your Honor.

(Testimony of Miles H. Robinson.)

The Court: Is your 274?

Mr. Kimball: Yes, I have no reason to think it isn't.

Q. Dr. Robinson, did you give this summary for use in court, this document that I have just referred to, did you give a copy of that to the board of trustees of the local society at any time?

A. No.

Q. Now, relative to the transcript of the meeting of [1284] 11-21-50, which we have just referred to, I think, in No. 242 herein, Doctor, weren't you invited by Dr. Tompkins, the president of the local society, to make corrections you saw fit in the transcript with Miss Curts, the reporter?

A. Well, no.

Q. You say you were not?

A. I was invited to make them with her and with Mr. Fullerton.

Q. Oh, very well. Did you avail yourself of that opportunity?

A. I think we arranged a time, at least, with Dr. Tompkins and then he didn't show up.

Q. Who do you mean by "he"?

A. Dr. Tompkins.

Q. Did you ever go to Miss Curts and make suggested changes in the transcript that you thought should be made?      A. No, indeed.

Q. Why did you make the corrections on your own without consulting other parties to the proceedings?      A. What other parties do you mean?

(Testimony of Miles H. Robinson.)

Q. Any of the trustees or Miss Curts, the reporter?

A. Well, I felt the way I had been treated in that hearing, that it was futile and hopeless to consult them.

Q. If you are through with those, I will take them off your [1285] lap.

I hand you what has been marked Plaintiff's Exhibit 88 and I think has been admitted. This purports to be a letter from James H. Berge, M.D., Chairman, Grievance Committee, dated April 11, 1951, and addressed to you, is that correct, Doctor?

A. Yes.

Q. In the first part of the first paragraph, Doctor, is contained this language:

“This will acknowledge your letter of April the 9, 1951. In order to clear your mind as to the jurisdiction of the Washington State Grievance Committee, I would like to call your attention to the following facts,”

and then it goes on.

In the next paragraph, he says that no tape recorder will be permitted at the hearing.

In the next to the last paragraph on Page 1:

“You will be expected to attend the hearing and remain throughout the questioning and testimony of all witnesses. You will be allowed to ask questions and cross-examine such witnesses. The propriety of your questions will be ruled upon by the Chair. You will be permitted to bring with you any [1286] witnesses which you may wish to substantiate your

(Testimony of Miles H. Robinson.)

charge against the Walla Walla Valley Medical Society.”

Doctor, did you receive this letter? A. Yes.

Q. Did you consider that it gave you notice of the hearing and the subject matter of the hearing of the state grievance committee held in Walla Walla on April 22, 1951?

A. Well, I believe the letter of March 14th from Dr. Rownd gave me notice.

Q. Doctor, I hand you what has been marked Plaintiff's Exhibit 92 herein—— A. Yes.

Q. ——a letter from yourself to Dr. James Berge, dated April the 13th, 1951. In that letter, what did you say about attending the meeting, as to whether you would or would not?

A. Well, I said a number of things.

The Court: That wasn't the question, Dr. Robinson.

Will you read the question?

(The question was read.)

A. I said I would not attend the hearing.

Q. (By Mr. Kimball): In this exchange of correspondence on the subject, did you then receive a letter, which has [1287] been marked herein as Plaintiff's Exhibit 95, from Dr. James H. Berge, Chairman, Grievance Committee, to yourself, “Re: Dr. Miles Robinson vs. Walla Walla Medical Society,” and so on? A. Yes.

Q. Was further explanation given to you by the writer of the letter as to their viewpoint on their

(Testimony of Miles H. Robinson.)

right of jurisdiction in the matter?           A. Yes.

Q. I think you have previously testified that you did not attend this state grievance committee hearing, is that correct?

A. Well, I know that I did not attend it.

Q. And you didn't attend either phase of it, either your complaint against the grievance committee or the case of Brooks vs. Dr. Robinson? You didn't attend any phase of that hearing?

Mr. Sembower: Your Honor, I object to the characterization by counsel of the words "your complaint." We are familiar with the dangers of waiver in a situation like this and it is the position of the plaintiff that he never filed a complaint against the grievance committee in this form.

Mr. Kimball: I will withdraw that inference from my question, your Honor. [1288]

The Court: All right, the form of the question is bad.

Mr. Kimball: I merely wanted to find out if he attended any hearing on April 22nd of the state grievance committee.

The Court: There was one hearing for both matters?

Mr. Kimball: Yes.

The Court: And unless my memory is slipping very badly, I remember the doctor testified that he didn't attend and gave detailed reasons why he didn't attend, which I clearly remember.

Mr. Sembower: That is correct. There were the two matters up.

(Testimony of Miles H. Robinson.)

The Court: All right, go ahead.

Q. (By Mr. Kimball): Doctor, did you on the following day after this date of April the 22nd, in other words, on April the 23, 1951, write a letter to Dr. James Berge, which is marked herein as Plaintiff's Exhibit 99?

Mr. McNichols: I just wondered if it was admitted yet.

Mr. Kimball: I couldn't answer that.

A. Yes.

Q. Would you read the last two short paragraphs at the end of this letter, please, Doctor?

A. (Reading:) [1289]

“Of course, tyranny is usually based on a cowardly fear to submit inordinate ambitions to public scrutiny. In the future I intend to have nothing to do with star chamber committees, secret committees, closed hearings, and so on. Let the proponents of these come out into the open and risk their policies in the public view.”

Q. And in the second paragraph of the same letter, did you say:

“It seems that I am obligated to remind many, many of the people that have interested themselves in my difficulties——”

A. I didn't say “obligated.”

Q. “Obliged,” excuse me, Doctor. (Reading continued:)

“——that I am obliged to remind many of the people that have interested themselves in my difficulties with certain of my local colleagues that I

(Testimony of Miles H. Robinson.)

have no fault to find with the Walla Walla Valley Medical Society.”

Is that part of that letter?           A. Yes.

Mr. Kimball: I believe that has been admitted.

The Clerk: Is it 99? [1290]

Mr. Kimball: 99.

The Court: 99.

The Clerk: No; it is not admitted.

Mr. Kimball: I move its admission, your Honor.

The Court: It will be admitted, Plaintiff's Exhibit 99.

(Whereupon, the said letter was admitted in evidence as Plaintiff's Exhibit No. 99.)

Q. (By Mr. Kimball): Doctor, these communications which I have discussed with you this morning, at least the parts that represented your writing the letters regarding your complaint to the grievance committee, in reviewing them, as you do now, how do you think they comply with your statement in your letter to Dr. Page dated October the 9th, 1950, Exhibit 16 herein, wherein you said: "And for my part, I will do what I can to keep the thing quiet"?

Mr. McNichols: I might say, your Honor, I don't think I clearly understand the question.

You say how does it comply, Mr. Kimball?

Mr. Kimball: Yes; that was my question.

The Court: Do you understand the question?

A. No, sir; I really don't.

The Court: I don't think I do, either. Will you [1291] read it, please?

(Testimony of Miles H. Robinson.)

(The question was read.)

Mr. McNichols: In the first place, your Honor, I think he has answered his question as to why he changed his mind about keeping it quiet when he didn't hear from Dr. Page.

The Court: Would your answer be the same as you gave before?      A. Yes, sir.

The Court: I remember what it was.

Q. (By Mr. Kimball): On this same subject, Doctor, I will hand you what has been marked Defendants' Identification 434 and ask you if you know what that is?      A. Yes.

Q. Will you state to the Court what it is, please?

A. This is the November issue of the magazine, Medical Economics, 1952.

Q. And will you turn to Page 108 therein?

A. (Witness complies.)

Q. 208, please. Do you recognize the article therein?      A. Yes.

Q. What is it?

A. Oh, it is an article about myself.

Q. And is there anything else there?

A. Well, there is a picture of myself [1292] there.

Q. Dr. Robinson, do you know anything about the publication of that article?      A. Yes.

Q. Do you know anything about the basis of the information that was furnished for the writing of that article?

Mr. McNichols: I think I will object to that ques-

(Testimony of Miles H. Robinson.)

tion. Obviously, he knows something about it. Can you be more specific, Mr. Kimball?

Mr. Kimball: Yes; I can. I will ask Dr. Robinson if he didn't furnish a part, if not all, of the information on which that article was written?

Mr. McNichols: Might I ask that the question be qualified by setting forth the date and the approximate time?

Q. (By Mr. Kimball): Yes; and give the date and the approximate time, Doctor.

A. I can't tell you the date.

Q. Can you give me the approximate date with reference to the date of the magazine?

A. Oh, let me see, about three or four months before November of '52, might have been two months, something like that.

Q. Did you furnish the editor or some representative of the magazine with the information on which that article was written? [1293]

A. I gave them some information but not all of it.

Q. Do you know where the photograph of yourself was procured?

A. Oh, yes, they asked me for a photograph and I gave them one.

Q. Do you know where that magazine is circulated? What kind of a magazine is that?

A. Well, this magazine is financed by the drug interests and contains a lot of news about the medical profession and doctors and it is sent free of

(Testimony of Miles H. Robinson.)

charge to practically every doctor in the country. At least, that is what they say.

Q. By the country, you mean the United States, I presume?      A. Yes.

Q. Doctor, I show you what bears the mark of Defendants' Exhibit for Identification 426 in this action and ask you to look at it.

Mr. Kimball: Oh, I would like to move the admission of this last exhibit.

Mr. McNichols: I would like to ask him some questions on voir dire, your Honor, if I may.

The Court: All right.

Mr. Kimball: Surely.

Mr. McNichols: First of all, I haven't had an opportunity to examine this, but I will ask, Dr. Robinson, [1294] have you read the article that appears in this magazine?      A. Yes.

Q. Is it your writing that appears therein?

A. No.

Q. Do you know of your own knowledge who wrote it?      A. No.

Q. Do you know of your own knowledge where the facts were obtained that appear in that article that weren't furnished by yourself?

A. The only thing I know is that this exhibit just handed to me, No. 426, I believe I sent this document to Medical Economics, and that is the only thing that I know that I sent them and I don't know that, but I think so because they quote this document in that article.

(Testimony of Miles H. Robinson.)

Q. Other than that, is there any further material in there that is your writing at all?

A. No; not that I know of. [1295]

\* \* \*

Q. (By Mr. Kimball): Dr. Robinson, didn't you send some documentary matter pertaining to your difficulties with the medical society to *Medical Economics*, this magazine?

A. As I said before, I think I sent them this letter of August 18, '52.

Q. Did you send them a copy of a complaint for a lawsuit or anything?

A. I may have sent them a copy of the complaint, but I couldn't tell you for sure.

Q. Did you send them the photograph that is published there?      A. Yes, I did.

Q. Did they have your consent to make the publication?

A. They wrote me about it and my recollection is they didn't ask my consent.

Q. Did you object?      A. No.

Mr. Kimball: I move the exhibit be admitted.

The Court: I beg pardon?

Mr. Kimball: I move it be admitted.

The Court: What is that document he has? Is that already in evidence? [1297]

Mr. Kimball: That was the next one. It isn't yet, but I was about to offer it.

The Court: Oh, I see.

(Testimony of Miles H. Robinson.)

Mr. Kimball: I will offer that now, after asking the doctor——

The Court: Is it marked already?

Mr. Kimball: Yes, it is marked.

Mr. Rosling: Classified and marked.

The Court: What is the number?

The Clerk: This is 434.

Mr. Kimball: This is 426.

The Clerk: Oh, this one?

Mr. Kimball: And it is Defendants' Identification 426 and I was about to ask the doctor if he can identify what it is.           A. Yes.

Q. What is it?

A. Well, that is a letter I prepared and sent to the doctors in Washington State.

Q. Multiple letter, is it a mimeographed letter you prepared?

A. It is a mimeographed letter.

Q. Containing about how many pages?

A. Six pages.

Q. And to whom did you send it? [1298]

A. Well, I sent it to all the doctors I could locate in the State of Washington.

Mr. Kimball: I ask this be admitted.

The Court: Let me see——

The Clerk: 426.

Mr. Kimball: 426, it is a defendants' identification.

The Clerk: It is under Classification 1.

The Court: Oh, yes, it will be admitted, No. 1.

(Testimony of Miles H. Robinson.)

(Whereupon, the said letter was admitted in evidence as Defendants' Exhibit No. 426.)

Q. (By Mr. Kimball): Dr. Robinson, did you likewise send a letter pertaining to your difficulties with the local society and certain of the local doctors to all of the doctors in the Maryland Society in May of '54, or some such date, when you moved back to Maryland?

A. I sent a copy of my complaint of this suit to the members of the Baltimore County Medical Association. I think it was on May the 13th, '54.

Q. Have you a copy of that letter among your documents here? A. I think so.

Q. Could you furnish it, please, without too much trouble?

A. I don't know if it is here right now, but I have a copy. [1299]

Q. I will ask, Doctor, could you furnish it after the recess, if you can find it, for our examination?

A. Well, I imagine that is up to my counsel.

Mr. McNichols: We will furnish it.

Mr. Sembower: If we can find it, we will, yes. We hadn't known that that was at all pertinent to these issues.

Mr. Kimball: Maybe it isn't, I am just asking to see it. We hadn't seen it, Mr. Sembower.

Q. Now, Dr. Robinson, I want to get on to this question of the grievance committee formation a little bit and I will try to rush this along.

First, I want to ask you, Doctor, I think you testi-

(Testimony of Miles H. Robinson.)

fied that you were in attendance at a meeting of the local society when the grievance committee was first formulated, is that correct, on or about April the 25th, 1950?

A. I was there when the motion was made and passed to organize such a committee.

Q. I want to ask you first, Doctor, were you one of the founders of the Walla Walla Medical Society when it was organized and incorporated in 1949 or '50?

A. Well, I was not a founding member when it was organized. However, when it was incorporated, I notice that my name appears among the incorporators.

Q. Well, I am referring to the society, the Walla Walla [1300] Valley Medical Society incorporation; were you one of the organizers of that?

A. No, I was not one of the organizers, but my name is on the incorporators, which I really don't know how that happened, but I may have given it to them.

Q. You didn't sign it?

A. I think I was asked to sign it.

Q. Well, if you signed it and you signed as an incorporator, wouldn't you be an incorporator?

A. Well, I think we had a meeting and everybody that happened to be at the meeting put their signature on this thing because it required a certain number of signatures, and I was merely trying to make sure I answered your question accurately because I didn't have anything to do with really in-

(Testimony of Miles H. Robinson.)

corporating it or arranging to have it incorporated.

Q. Well, you signed it? I will ask it that way.

A. Yes, I did.

Q. And you didn't sign it with any mental reservations, did you?      A. Oh, no.

Q. Referring now to the minutes of the society for April 25, 1950, I read you a short paragraph, Doctor:

“Dr. Stevens moved, seconded by Dr. Moore, that the Chair appoint a committee of three [1301] to investigate, draw up rules of procedure, and to act as a grievance committee; the duty of the grievance committee to investigate grievances against the fee charges made by and the actions of members of the society and to investigate violations of the rules and regulations of the Washington State Medical Association. Motion carried.”

Your name is shown as one of the doctors in attendance at that meeting, is that correct?

A. Yes, I think so.

Q. At that time, Doctor, do you remember whether or not Dr. Stevens made an explanation to the society of his reasons for his proposal and motion that a grievance committee be formed?

A. I really don't remember much about that, about any explanation, at that time.

Q. Do you recall that a prominent mention was made by Dr. Stevens of the public relations feature of such a committee?

A. Well, I could agree to that because that has been mentioned at all times.

(Testimony of Miles H. Robinson.)

Q. You do agree?

A. That such mention was made, yes.

Q. Do you recall that Dr. Stevens made a point of bringing [1302] out that better public relations could be maintained between the medical profession and the public by affording a medium by which members of the public could air their misunderstandings and grievances against charges that were made by members of the society?

A. Well, I think I have heard him say that at sometime or other, yes.

Q. Doctor, at that time did you make any objection to the formation of the grievance committee?

A. I don't think so.

Q. Did you vote for it?

A. I couldn't tell you.

Q. The minutes show that it was passed. Would you say you voted against it?

A. Well, on votes at times, I know I just didn't vote one way or the other. I was too new in the society to have an opinion and the voting was a rather perfunctory affair.

Q. You didn't raise any objection that you now recall?

A. No, I know I didn't raise any—well, I don't think I raised any objection.

Q. Did anyone else make any speech against the formation of the committee or the purposes of it?

A. It was moved and voted so quick, I don't think there was any speeches made. [1303]

(Testimony of Miles H. Robinson.)

Q. Did you consider at that time that the formation of such a committee was the formation of a tyrannical club for power?      A. No.

Q. You have used those terms since to designate it, have you not?      A. It sounds like it.

Q. Doctor, I read you the minutes of the trustees meeting of June the 19th, 1950, of the trustees of the society, a portion of the first paragraph, reading:

“The Executive Secretary reported on the establishment of the grievance committee. The organization was approved and the Secretary instructed to attempt to obtain an editorial in the local paper in explanation of the news article that had been previously publicized.”

Dr. Robinson, did you know that a news article had been published relative to the formation of the grievance committee?      A. At what time?

Q. Well, I will say in April of 1950?

A. No.

Q. Did you see that?

A. I saw one article and it was published, I remember, June [1304] the 16th, 1950, but I did not see that until after all this trouble started when I went up to the public library and looked back——

Q. I show you—excuse me, did you finish?

A. Yes.

Q. I will show you what has been marked herein as Plaintiff's Exhibit 45 for identification and ask if that is the article to which we are referring?

A. Yes. But this is not an editorial.

(Testimony of Miles H. Robinson.)

Q. I didn't mean an editorial, I meant a news release. A. Yes.

Mr. Kimball: I would like to offer that exhibit, your Honor.

The Court: What number is that?

Mr. Kimball: It is No. 45, Plaintiff's 45 for identification.

The Clerk: It is in No. 1, your Honor.

The Court: It will be admitted.

(Whereupon, the said news release was admitted in evidence as Plaintiff's Exhibit No. 45.)

Q. (By Mr. Kimball): Have you read the article since you learned about it? A. Yes.

Q. Do you have any objection to the contents of the article? [1305]

A. Well, I think I probably do. I would have to look at it, I think, to say.

Q. Did you consider it undemocratic?

A. What was that?

Q. The publication of the article or the contents of the article?

A. Well, I think I could say yes.

Q. Dr. Robinson, did you think that the effort to establish the grievance committee would sponsor better public relations between the medical profession and the public? A. Any grievance committee?

Q. This particular grievance committee?

(Testimony of Miles H. Robinson.)

A. No.

Q. No what?           A. I do not think so.

Q. Did you think that it would have a bad effect on public relations?           A. Yes, indeed.

Q. Could you tell me why, Doctor?

A. Well, I am speaking from knowing how it acted. Did you mean at the time it was formed?

Q. Yes, at the time it was formed, any grievance committee for the purposes set out?

A. Well, it didn't have any purpose one way or the other, to speak of, at the time it was [1306] formed.

Q. Doctor, I will read you the minutes of June the 20th of the society, or a portion of them. First, Doctor, were you in attendance at the meeting of June the 20th, 1950? You are shown to have been there.           A. Well, I think I was.

Q. (Reading:)

“The Executive Secretary reported on the formation of the grievance committee, stating that the committee had adopted its methods of procedure and that a public announcement of its availability and use had been made in the press. The President was asked for the names of the committee members and ruled that, in his opinion, the value of the committee would be seriously lessened if the names were announced. Dr. Holmes then moved, seconded by Dr. Moore, that the ruling of the Chair be referred to the Board of Trustees as to whether or not the information should be available to the membership of the society. Motion carried.”

(Testimony of Miles H. Robinson.)

Do you remember that action at that meeting, Doctor?      A. Very well. [1307]

Q. Do the minutes I just read fairly depict the happenings of the date and at the meeting on this subject?      A. I would say no.

Q. You would say no? Wherein do they differ from your recollection?

A. Well, they don't describe the rather spirited discussion that took place when Dr. Page said he would not reveal the names of the members to the rest of us sitting there in the room.

Q. There was a discussion then?

A. Yes, indeed, there was.

Q. Did you participate in that discussion?

A. I think I did.

Q. Did you object to that?

A. I think I did.

Q. Do you remember whether you did or didn't?

A. Well, I couldn't say for sure. I was sitting on the edge of my chair and trying to get ready to say something, if I didn't say something, and I think I did say something.

Q. Were you refused an opportunity to express your views at the time?

A. I think you could say yes.

Q. Tell the Court how.

A. The way it happened was we had hardly got started on the [1308] discussion, when Dr. Holmes jumped up and referred it to the board of trustees for decision.

(Testimony of Miles H. Robinson.)

Q. Well, he didn't refer it, did he, Doctor; I thought you said he made a motion to refer it?

A. That is what I meant to say .

Q. Was that motion voted on?

A. It was, very quickly.

Q. Did it appear to be in the regular course of business?

A. Well, I thought at the time it was being jammed through. It was not a spontaneous thing.

Q. I will read you the minutes of the board of trustees of the Walla Walla Valley Medical Society dated July the 18th, 1950, and in connection with that date I call your attention to the fact that this trustees meeting was approximately a month after the last meeting was talked about.

A. Yes.

Q. "The motion of Dr. Holmes made at the society meeting of June the 20th to refer the ruling of the Chair that the names of the membership of the Grievance Committee should not be made available to the membership of the society, referring to the board of trustees for decision, was extensively discussed. Dr. Keyes moved, seconded by Dr. Lange, that the ruling of the Chair be confirmed. Motion carried." [1309]

Dr. Robinson, I will ask you if at any time between the date of June the 20th, 1950, when this action was taken relative to the anonymity of the members of the committee, and the meeting of the trustees on July the 18th, 1950, did you take up with

(Testimony of Miles H. Robinson.)

any member of the board of trustees your objection to this procedure?

A. May I see those minutes, please?

Q. Surely.

The Court: When was the trustees meeting?  
July——

Mr. Kimball: July the 18th, 1950.

The Court: Oh.

A. My answer would be I don't believe the trustees acted on this date as is shown in these minutes.

Q. (By Mr. Kimball): Well, that wasn't my question, Doctor. I'm sorry I didn't make myself clear. I asked you——

The Court: He answered another question from the one you asked.

Mr. McNichols: Just answer the question.

The Court: He answered one he thought of in his own mind. Read the question.

(The question was read.)

A. Well, your Honor, his question contains the statement——

The Court: His question is a plain statement, whether you did or did not take up with any member of the board of trustees the matter of the secret character of the [1310] committee between the society's meeting and the trustees meeting? Did you or did you not? Now, if there are other things to be asked, your counsel can ask them and bring them out and make explanations, but simply if we are going to have orderly procedure, you must

(Testimony of Miles H. Robinson.)

answer the questions and not what you think should be said if it isn't responsive.

The Witness: Could I ask my counsel a question?

Mr. McNichols: Just answer the question, Dr. Robinson, yes or no.

The Court: Do you understand the question, Dr. Robinson? I will have the reporter read it if you don't.

A. No, sir; I thought that in order to answer the question, I would have to assume that his statement that this action was taken was correct, and there is an alteration in the minutes there.

The Court: He didn't ask you to assume anything. A. Oh.

The Court: Do you take the position that there wasn't any meeting of the trustees the second time?

A. Yes, sir; I take the position that there is—you can see here they have typed in something in the original minutes, and I take the position they did not take this action at that time and I didn't know how I could answer the question because it was based on his statement they took this action and the minutes show an alteration here. [1311]

The Court: Well, I understood what he is trying to find out is whether you took it up with the trustees between June 20th and July 18th. Isn't that what you are inquiring about?

Mr. Kimball: Yes, your Honor.

A. I could answer that.

The Court: If you want your counsel to bring

(Testimony of Miles H. Robinson.)

out there wasn't any meeting or it was rigged or something else, why, he can bring out that at the proper time. A. Well, I didn't take it up, no.

Mr. Kimball: Thank you. That is the answer I want.

Q. Doctor, do I understand, then, that you made no objection at the meeting when the grievance committee was formed and that you took no action yourself to bring your objections to the minds and attention of the trustees thereafter until July the 18th, 1950?

A. My recollection is that I objected at the general meeting of June the 20th, 1950.

Q. Yes, subject to the testimony you have given relative to your objection at that meeting?

A. Yes.

Q. None other?

A. Oh, I made no other objection until later.

Q. And was the next objection you made to the grievance [1312] committee or its formation or functioning was your objection that you made to Dr. Stevens when he talked to you about the Edwards matter on or about September 23, 1950?

A. Yes.

Q. And that was approximately five months after the committee was formed, correct?

A. Yes.

Q. Doctor, I will ask you, do you concede that a professional society such as the medical society has any right, as one of its proper functions, to control or recommend or advise a fair fee schedule

(Testimony of Miles H. Robinson.)

and charges as between the members and the public?      A. No.

Q. Dr. Robinson, after your conversation with Dr. Stevens on the 23rd of September, did you not attend a meeting of the local society three days later on September the 26th, 1950?      A. Yes.

Q. May I borrow the minute book that you are holding, Doctor, please?

Doctor, I read from the minutes of the meeting of September the 26th, 1950, found in Exhibit 446, at meeting at which it is shown that you were present, is that correct, or do you remember? [1313]

A. I remember that meeting.

The Court: What was that date?

Mr. Kimball: September 26, 1950.

A. Yes, I remember that meeting.

Q. The minutes follow:

“Dr. Smeltzer reported on the meeting of the Washington State Medical Association held in Spokane September 10th. Following this report, discussion was held on the right of a doctor to hold membership in the State Association, etc.”

Dropping to the next paragraph, there is reference to the application for membership of Dr. John Cranor and others. Then at the last paragraph of these minutes is shown the following:

“Discussion was held on the operation of the Grievance Committee by Drs. Robinson, Stevens, Keyes, Carlson, and Tompkins.”

Do you remember the meeting and the discussion that is referred to in the minutes I last read you?

(Testimony of Miles H. Robinson.)

A. I remember some of it.

Q. Did you join in that discussion?

A. Yes, I think so.

Q. Did you initiate it?

A. May I see those minutes? [1314]

Q. Surely.

(Exhibit handed to witness.)

A. I think I did.

Q. Do you remember now how you initiated it?

A. Yes.

Q. Tell the Court, please.

A. I got up on my feet and mentioned my meeting with Dr. Stevens three days before, said I was very much against the idea of the secret committee and said I hoped the society would discontinue it.

Q. Is that all that you said?

A. That is all I remember.

Q. Did Dr. Stevens then get up and present his version of the incident of September the 23rd?

A. Yes.

Q. Was it freely discussed among the membership, and particularly those mentioned in the minutes? A. Yes.

Q. Were you in any way impeded or held back or hampered in your discussion of this subject before the whole society? A. No.

Q. Were you abused or criticized in any way for the view you took at that time?

(Testimony of Miles H. Robinson.)

A. Somewhat. [1315]

Q. By whom? A. Dr. Stevens.

Q. Anyone else? A. No.

Q. Do you mean by Dr. Stevens that he disagreed with you, or that he criticized and abused you? A. Both.

Q. That he criticized and abused you, also?

A. Oh, I don't think he abused me.

The Court: Verbally?

Q. (By Mr. Kimball): I mean verbally I don't mean physically, Doctor.

A. Well, he was quite indignant and very critical. I think that is as far as it went.

Q. Between the two of you, Doctor, between you and Dr. Stevens, were most of the views, pro and con, as to what had happened at the meeting between you and Stevens of September the 23rd brought out at that meeting?

A. Oh, I think they were.

Q. Did you state to the society at that meeting that Dr. Stevens, as chairman of the grievance committee, had accepted a false complaint against you?

A. Did I state that?

Q. Yes.

A. What was that again? [1316]

(The question was read.)

A. I didn't know anything about a complaint beyond what Dr. Stevens had told me.

Q. Well, that is all I mean.

A. I said it was trivial.

(Testimony of Miles H. Robinson.)

Q. You said it was trivial, but you didn't claim it was false? A. I said it was unjustified.

Q. Well, did you criticize the grievance committee for having accepted the complaint, Doctor?

A. Well, I just criticized the committee, period. Said it had no business to do what it did.

Q. Doctor, you have examined the bylaws and constitution of the local society as they were extant at that time, at that date and in April of 1950, and are familiar with them, is that correct?

A. I don't believe I have.

Q. You mean you haven't studied them?

A. I don't think I had paid any attention to the bylaws up until that time.

Q. Well, you have now? A. Oh, yes.

Q. You are fairly conversant with them?

A. Yes, I think so.

Q. Can you cite to me, Doctor, any provision of either the [1317] constitution or bylaws of the Walla Walla Society prohibiting or preventing the formation and use of a grievance committee such as was formed here?

A. Preventing the use of it?

Q. Preventing or prohibiting?

A. The word "grievance"—no.

Q. And the bylaws, they are now the same as they were in 1950, are they not?

A. I think they are.

Q. And the constitution, likewise?

A. I believe so.

(Testimony of Miles H. Robinson.)

Q. Do you concede the power of the local medical society to formulate and use a grievance committee?

Mr. McNichols: Your Honor, I am wondering if we are not getting into conclusions that the witness may be drawing?

Mr. Kimball: That may be right. If it is, I will withdraw the question.

The Court: Yes, I think it is, probably.

Mr. Kimball: I will be happy to withdraw the question.

The Court: Probably getting into the issues of the case.

Mr. Kimball: It may be an ultimate fact that the Court will decide. [1318]

Q. Dr. Robinson, whom did you consider formed the grievance committee of the Walla Walla Society? A. I don't know.

Q. Well, weren't you in attendance on the meeting of April the 25th, 1950, when it was formed?

A. Well, I just don't know what you mean by formed.

Q. Organized?

A. Well, I mean I don't know whether you mean who planned it or who appointed it or——

Q. Well, I used the term "organized," I will change it to "create" if that simplifies the question.

A. Well, it doesn't really—there were so many people, so many organizations, involved. I just don't know what you want to know.

(Testimony of Miles H. Robinson.)

Q. You can't answer my question as to who organized the grievance committee?

Mr. Sembower: Your Honor, I think the question is ambiguous, knowing the views of the witness as he has testified. He has testified that this committee was formulated pursuant to the AMA, to perhaps the Washington State Medical Association, and then by Dr. Page, and then also in the meeting itself pursuant to motion and then by the trustees. It is a hard thing, too, for him to answer a question as to who created it.

The Court: Will you read the question? [1319]

(The question was read.)

The Court: Well, I will sustain the objection unless you make it more specific.

Mr. Kimball: All right, I will approach it another way. I will withdraw the question, if I may.

Q. And I ask you, Doctor, if in your deposition at Walla Walla, when discussing this subject, the question was asked of you by Mr. Tuttle or myself:

“Q. Is that the only way Dr. Stevens was acting as an agent of the AMA in this conspiracy?”

“A. Oh, no, he was one of the moving factors all through this thing, as you will find in the complaint.

“Q. How was he acting as an agent of the AMA in this conspiracy?”

“A. Well, first, he was a member of the AMA; second, he was the organizer and the chairman of

(Testimony of Miles H. Robinson.)

this AMA-sponsored grievance committee exercising police power," and so on.

Did you make these answers to the questions that I have just read you?           A. Yes.

Q. Well, then, what did you mean when you told me you [1320] couldn't answer my question as to who organized it?

Mr. Sembower: Well, your Honor, I don't think there is any point in counsel saying that. Let him post that question to the witness. That places a different orientation on the word "organize."

The Court: Well, I will sustain the objection to the last question.

Mr. Kimball: Very well.

Q. Dr. Robinson, you have initiated a suit in the Federal Court in Illinois, have you not, against the AMA?

Mr. McNichols: Object to that question, your Honor. I don't think that case in Chicago has any relation to the issues here.

The Court: What is the point of the question?

Mr. Kimball: Maybe the point isn't well taken, your Honor, but I wanted to ask a couple of questions as to the position he is taking in the Chicago lawsuit relative to the local situation.

The Court: Inconsistent with the position, with the case here?

Mr. Kimball: Yes, relative to the formation of the grievance committee.

The Court: Well, all right, I will overrule the objection.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Can you answer the question, please, [1321] Doctor?

A. Could you read that question?

(The question was read.)

A. Yes.

Mr. Kimball: Could I have 466, please, Mr. Clerk?

The Court: I might say that this isn't, in one sense, an independent action back there because the record here, of course, the Court takes judicial notice, as the file shows, that the American Medical Association was at one time a party defendant here and was dismissed out apparently on jurisdictional grounds, so it is simply a renewal of a suit that started here, anyway.

All right, go ahead.

Mr. Kimball: I am not going into it extensively.

The Court: I simply want to point that out, because I don't regard it in the light of the circumstances as an independent, different action, as I think the state court action was.

Q. (By Mr. Kimball): Doctor, I will show you what has been marked as Defendants' Identification 466 in this action and ask you if you will look through it briefly and see if you can identify it?

A. Well, that appears to be the complaint in the Chicago case. [1322]

\* \* \*

Q. (By Mr. Kimball): Doctor, as far as you are familiar with the Chicago suit that we have

(Testimony of Miles H. Robinson.)

talked about, have you taken the position there that the American Medical Association has initiated and caused the organization of the local society's grievance committee?

A. Caused the organization of it?

Q. Yes.

A. Well, as I said before, I think there is—well——

Q. Answer the question, please.

A. I don't see how I can answer that question.

Mr. Kimball: Will you read it back, please? Maybe it wasn't clear. [1324]

(The question was read.)

A. Yes.

The Court: I might state, counsel, frankly that I doubt that this is going to be very helpful, because in view of the nature of Federal Court pleadings, they are obviously drafted usually by the attorneys, they are not required to be verified by the litigant, and, moreover, the Rules of Civil Procedure countenance inconsistent and alternative pleadings. A litigant may take a position one place and say if that doesn't work, I am going to try something alternatively in another case, and it doesn't really mean much, the stand taken in pleadings.

Mr. Kimball: I will be very glad to withdraw the offer as an exhibit and leave it as an identification.

The Court: All right.

Q. (By Mr. Kimball): Now, Dr. Robinson, do

(Testimony of Miles H. Robinson.)

you concede that a complaint was made by Mrs. Noel Edwards to Mr. Fullerton as secretary of the grievance committee of the Walla Walla Society regarding a dollar and a half charge made by you?      A. Do I concede that it was made?

Q. Yes.      A. No.

Q. I hand you, Doctor, what has been marked and discussed herein as Plaintiff's Exhibit 10 and ask you to look at [1325] it again.      A. Yes.

Q. What is that?

A. Well, it purports to be a complaint of Mrs. Noel Edwards.

Q. That is an exhibit of the plaintiff's. Is it No. 110?      A. No. 10.

The Court: Yes, it is in evidence.

Q. (By Mr. Kimball): Let me ask you this, Doctor, if that was filed, would you concede that that was a complaint?

Mr. Sembower: I object to that as very speculative, your Honor. I don't think the witness is being captious on the question. One of our fundamental positions is that this complaint was procured and is not a voluntary complaint, and I think that is what is troubling the witness in answering that particular form of question. Physical acts leading to this are the subject of inquiry that is legitimate.

The Court: I am not sure what counsel has in mind. May I see the exhibit?

(Exhibit handed to Court.)

What was the question?

(Testimony of Miles H. Robinson.)

(The question was read.)

The Court: Well, I think I will sustain objection to that.

Q. (By Mr. Kimball): Doctor, I will ask you if it is your [1326] position that Mrs. Edwards never made a complaint to Mr. Fullerton?

A. I don't know whether she did or not.

Q. That's fine. Doctor, did you think that Dr. Stevens was talking about a complaint that had been made to the grievance committee by Mrs. Edwards? A. Well, that is what he said, yes.

Q. Doctor, do you concede that a letter dated September the 30th, which is a letter exhibit in here, was written on behalf of the grievance committee relative to the Edwards complaint, was written to Mr. Noel Edwards with a carbon copy to you? A. No.

Q. That that was not done, is it your position?

A. I don't know whether it was done or not.

Q. You do not concede it? A. That's right.

Mr. McNichols: Just a moment, counsel. If I may say a word, your Honor, to Mr. Kimball. Your question presupposes it was written on behalf of the grievance committee, which I assume purports to mean the grievance committee acting as a unit, and that question is in issue here also and the witness may be confused.

The Court: Well, another thing, I doubt the propriety of asking the witness for concessions unless they are [1327] matters within his personal knowledge.

(Testimony of Miles H. Robinson.)

Mr. Kimball: That is what I was seeking.

The Court: It is a factual examination, really, and not——

Mr. Kimball: I was asking him if he had knowledge from which he could say that was true or not true. I think he has answered the question.

The Court: I thought you asked whether or not he conceded the letter was written.

Mr. Kimball: That was my language. That was the language, but what I was seeking to arrive at was the basis of his knowledge.

The Court: Oh. Well, proceed.

Q. (By Mr. Kimball): Doctor, do you know whether or not Dr. Stevens was even in Walla Walla from the date of September the 30th for a fortnight after that?      A. I don't know.

Q. Doctor, you testified the other day, I believe, to the fact that the society was not interested in regulating ethical matters and you referred to the fact that you had on one occasion stated to the society that a certain doctor had surrendered his narcotic license, is that correct? Did you testify to that?      A. Well, not in those words.

Q. No, I don't mean to be quoting you, but, in substance, [1328] is that what you testified to?

A. Well, I have used the words that his license had been revoked, which is different from surrendering.

Q. Very well. When was it that you stated these things to the society, if you did?

(Testimony of Miles H. Robinson.)

A. Well, if I could see the minute book of January, '51.

Mr. McNichols: January, '51?

A. 25th, I think it is.

I made that statement in the regular meeting of the society, January 25, '51.

Q. (By Mr. Kimball): Now, Doctor, in your testimony, you didn't refer to the name of that doctor, and I am not asking you to refer to it now, unless you choose to, but at the time you stated this to the society, did you name the doctor by name?

A. No.

Q. Is that doctor living?

A. I believe not.

Q. Where did you get the information on which you made that statement?

A. I was told that by a city detective of the City of Walla Walla.

Q. Was it hearsay, then, as far as you were concerned? A. Well, all I know is he told me.

Q. The doctor didn't tell you, did he? [1329]

A. Not in so many words.

Q. Did you make your complaint in writing to the society or any member of the society?

A. No.

Q. And you didn't name a name? A. No.

Q. Dr. Robinson, I want to ask you a few questions now in the general category of the Brooks complaint, as distinguished from the grievance committee and the Edwards matter.

(Testimony of Miles H. Robinson.)

Doctor, I hand you what has been marked herein as Plaintiff's Exhibit 18. Would you glance through that, please?      A. Yes.

Q. Do you know what it is?      A. Yes.

Q. What is it?

A. It says here, "Statement of Thomas R. Brooks Made to Members of the Walla Walla Valley Service Corporation."

Q. Will you look at the end of it and see if it bears any signature?      A. Yes.

Q. Whose signature is shown?

A. Thomas Richard Brooks.

Q. Is that your former patient of whom you have testified [1330] here?      A. Yes.

Q. Do you recognize his signature?

A. Well, I have no reason to really know his signature. I think that is it.

Q. I read to you from page 4 of Exhibit 18 starting at line 5, as follows:

"Well, at ten minutes to eight, on the Sunday morning, my telephone rang and it was Dr. Robinson. This is the conversation. I answered the telephone, 'Hello.' He said, 'This is Dr. Robinson.' I replied, 'This is Mr. Brooks.' He immediately said, 'Well, Mr. Brooks, I have decided if you don't have your daughter give me that letter, I will have to report you and your wife to the medical authorities. If you hand the letter over, I won't do anything.' I replied, 'Doctor, that is a threat.' He replied, 'No, it isn't.' I said, 'It is a threat because you have said to me, Dr. Robinson, if I do A, you won't do

(Testimony of Miles H. Robinson.)

B, but if I don't do A, you will do B. I am awfully surprised at your action. I cannot understand it. I didn't [1331] want to get in this argument and now you have me in over my head because I happen to be one of the unfortunate ones to have something in my blood that you state you should have notified authorities about. Why haven't you notified them before? I am not going to let you have the letter now.'

"He then threatened to tell my son-in-law and daughter. I said, 'If you do, Doctor, you will have me taking a view that you are a cantankerous type and a disgrace to your profession.' He then said he would give me until noon that day, Sunday, to get the letter to him."

Doctor, this statement being a portion of the Document 18, do you believe that the portions I have read constitute a charge or a complaint against a doctor involving ethics or unprofessional conduct?

A. I don't know really—well, no.

Q. Your answer is no?           A. That's right.

Q. Now, so you don't misunderstand my question, I am not asking you to concede whether it is true or false, I am saying the charges made in there do you consider a [1332] charge against a doctor involving ethics or unprofessional conduct?

A. May I see that thing you read?

Q. Yes, you may. I started at line 5 and read down to about 29.

A. Just what is your question?

(Testimony of Miles H. Robinson.)

Mr. Kimball: Will you read the [1333] question?

\* \* \*

Q. (By Mr. Kimball): I will put it this way, Doctor: If a man did the things that were alleged to have been done by Mr. Brooks in that statement, do you consider that that man, that doctor, would have been guilty of unethical conduct as defined by the bylaws, the constitution of the local society, or the code of ethics of the AMA adopted by the local society?

A. Well, all I can say is I don't think a man should do what Mr. Brooks is accusing me of doing.

Q. That is good enough for my purposes.

The Court: Court will take a recess now for ten minutes.

(Whereupon, a short recess was taken.)

Mr. Kimball: Mr. Reporter, would you read the last answer, please?

(The answer was read.)

Q. Well, did you consider the accusation that Brooks had made in that document a complaint against you, Doctor?

A. A complaint against me?

Q. A complaint against you.

A. Yes. [1334]

Q. Doctor, I direct your attention to the minutes of the November 9, 1950, meeting of the local so-

(Testimony of Miles H. Robinson.)

ciety, being a part of Defendants' Exhibit 447, and ask you, or rather read to you a portion thereof:

“Attorney Kimball read to the Board a complaint made by Thomas R. Brooks. After an extensive and complete discussion of the causes that led to the filing of the complaint, the following motion was made by Dr. Tompkins and seconded by Dr. Ralston:

“‘That an official hearing be held by the Board of Trustees of the Society on the complaint of Mr. Brooks; that Dr. Robinson be served with a copy of the complaint, notified that the hearing is to be held, and requested to be present to present his answer; that the meeting be held in the office of Dr. Ralston, November 21, 1950, at 8 p.m.’

“The motion, after being duly read by the Secretary, was put to a vote and carried unanimously.”

Doctor, assuming that the complaint, or however you depict it, that Mr. Brooks signed was made, and I am not asking you again to admit the truth or falsity of [1335] it, and was in the hands of the trustees of your society, did you think that it constituted such a charge of wrongdoing by you as would justify the board of trustees in investigating it?      A. Yes.

Q. Doctor, do you know of any of the defendants in this lawsuit who induced Mr. Brooks to make this complaint?

A. Do I think that some of them did induce it?

Q. I asked you if you knew——

The Court: No, no, I think what you are asking

(Testimony of Miles H. Robinson.)

is if he has any knowledge that any of them did. He hasn't testified to that, I assume he wouldn't have.

A. Well, I have——

The Court: Do you understand the question, Doctor?

A. I think I do.

The Court: All right.

A. I have no direct knowledge that they induced him to make the complaint.

Q. (By Mr. Kimball): Dr. Robinson, I hand you what has been marked as Plaintiff's Exhibit 39 herein. A. Yes?

Q. Would you please read that aloud? [1336]

\* \* \*

Q. What was the date of that that you read?

A. November 10, 1950.

Q. Did you receive a copy of that, if not the original, of that letter? [1337]

A. I received the original, I believe.

Q. About when?

A. I don't—well, November 10th or 11th, one or the other.

Q. November 10th or the 11th, 1950. Would that have been ten days prior to the scheduled meeting of November 21st? A. Yes.

Q. Did you consider that this letter which you have just read, Exhibit 39 or whatever it is, gave you notice of the purpose of the meeting?

A. Well, I would say so.

(Testimony of Miles H. Robinson.)

Q. Would you say that it notified you of an opportunity to be present and present your defense or explanation that you had in connection with the matter?      A. Well, yes.

Q. Was a copy of the Brooks statement, signed by Mr. Tom Brooks, handed to you at the same time as this notice or letter?

A. Well, that does refresh my memory. I believe this was brought around to me personally with such a complaint along with it and was not sent in the mail.

Q. And that is the same as this document as was marked here as Exhibit—

Mr. McNichols: Are you looking for the Brooks statement?

Mr. Kimball: Yes.

Q. As Exhibit No. 18 herein?      A. Yes.

Q. And did the copy you received bear the signature of Mr. Brooks?      A. I think so.

Q. What practical or expedient method occurred to you at the time or occurs to you now that could have been adopted by the board of trustees to conciliate or settle the charge of wrong-doing in the Brooks complaint?

A. You mean what could they have done that they did not do?

Q. No, that isn't exactly what I mean, Doctor. My question is directed to a provision of the bylaws, which says in part:

“If the accused person is a member of this Society, the Board shall investigate concerning the

(Testimony of Miles H. Robinson.)

matter alleged and shall use kindly efforts in the interest of peace, conciliation, or reformation, as far as possible and expedient.”

The Court: What section is that?

Mr. Kimball: That, your Honor, is——

The Court: It has been referred to before, I remember. [1339]

Mr. Kimball: Yes, it has. It is in Section 2 of Chapter II of the bylaws of the local society.

The Court: All right.

The Witness: And your question?

Q. (By Mr. Kimball): I will try to rephrase it.

Can you suggest now, or did you know then, of any practical or expedient method that the trustees could have used to “use kindly efforts in the interest of peace, conciliation or reformation” concerning the charge or claim of wrong-doing related by the Brooks complaint?

A. Well, if I understand your question, the bylaws call for them to have, as I interpret them, a conference, for the trustees to have a conference with me about the matter prior to any hearing.

Q. Did the meeting of November the 21st, referred to in the notice to you, occur as scheduled?

A. Yes.

Q. Did the transcript of that meeting, and which has been marked here as various number, but I believe 242, depict the parties present correctly?

A. The parties present?

Q. Yes. A. Well, substantially so, I think.

Q. Well, was there any deviation? [1340]

(Testimony of Miles H. Robinson.)

A. Well, yes.

Q. Well, who wasn't there that is shown to have been there and who was there who was shown not to have been there?

A. Well, Mr. Fullerton was there, I mean if you want me to try to be precise. He was there in an adjoining room and that is not shown here. Oh, I beg your pardon. This is the wrong one, it is that other one.

Mr. McNichols: For the record, you are referring now, Dr. Robinson, to Plaintiff's Exhibit 242.

A. And Mr. Fullerton is not shown as being present at this hearing November 21, 1950.

Q. Well, was he there during the hearing?

A. Well, he was there when I came and Dr. Tompkins told me later that he was there throughout the hearing.

Q. You didn't see him there, Doctor?

A. I saw him when I came.

Q. Yes. With that exception, it is otherwise a correct statement of who was there?

A. I think so.

Q. How long did the meeting last, if you recall, Doctor?      A. Nearly four hours.

Q. At the meeting, were you given an opportunity to be heard on your phase of the case?

A. No.

Q. Your answer is no? [1341]

A. That's right.

Q. Did you say anything?

(Testimony of Miles H. Robinson.)

A. Oh, yes. I interpret your question to mean adequately heard.

Q. Well, that wasn't what I had asked, Doctor, but I will ask that later. Were you permitted to be heard, was my question?

A. I was allowed to speak.

Q. Did you speak freely?

A. I would say no.

Q. What do you mean by no?

A. Well, I was constantly interrupted and I was forbidden to discuss adequately the nature of the man's condition or to quote from any books on the subject.

Q. Were you given an opportunity to admit or deny the charges that Brooks was making against you?      A. Yes.

Q. Who conducted the meeting?

A. Dr. Page.

Q. Did Brooks at that meeting and in your presence repeat substantially the same charge he made in the written document we have just been referring to?      A. Yes.

Q. May I borrow the instrument, please, you are holding?

During the hearing, did Miss Curts, the court reporter in attendance, appear to be taking notes on the statements of the people there that spoke?

A. Part of the time.

Q. I ask you, Dr. Robinson, if at that meeting on November the 21st, Dr. Page asked you the fol-

(Testimony of Miles H. Robinson.)

Following question or made the following statement—

Mr. McNichols: Mr. Kimball, would you give me the page number?

Mr. Kimball: 35, Mr. McNichols.

(Reading:)

“Dr. Page: At a prior time in his complaint she states that you have a copy of that letter and that you had indicated if he did not get this letter for you, that you would turn this whole idea of reporting to members of his family that he had syphilis, and if he did get it, you would not.

“Dr. Robinson: It is a little hard to remember what you might say when angry, but I recall something about taking back into the happy family.”

Do you remember that question and that answer?

A. I think that is wholly garbled. [1343]

Q. Do you remember anything substantially like that being said and answered by you?

A. I would say no.

Q. Do you have the corrections that you have said you made handy?

A. Yes, they are here.

Mr. Rosling: 83-A, 4-9-51.

Q. (By Mr. Kimball): I hand you 83-A, which I believe you said included your corrections. Will you show me the corrections you made relative to that statement?

A. One correction here that was made, line 20, it says in the transcript, “that you would turn this

(Testimony of Miles H. Robinson.)

whole idea or reporting to members," and I thought it should have said there, "should give up this whole idea or reporting to members."

The Court: Well, listen, he wasn't asking you to detail, as I understand it——

A. Oh.

The Court: ——your corrections; he is asking you to point out in your corrections any correction of this particular matter to which he has just directed your attention.

A. You mean as I now recall that it should have been?

The Court: No. Can you direct him to what you want here, Mr. Kimball?

Q. (By Mr. Kimball): I was referring to the corrections that [1344] you made at this earlier date, and I will ask you specifically to look at your notes and tell me what you indicated in your correction list was wrong between lines 17 and 27 which I read to you?

The Court: You have just testified that it was a garbled account, you didn't make that answer. Now he asks you to point out in that where you made your corrections, if you did, of that particular answer.

Isn't that right?

Mr. Kimball: Yes, your Honor.

A. The first correction that I made was line 17.

Q. Read it as it is printed and then read how you corrected it, please.

A. Oh, I will try to do that.

(Testimony of Miles H. Robinson.)

Q. Please don't write on the exhibit.

A. (Reading:)

“At a prior time in his complaint he states that you have a copy of that letter and that you had indicated if he did not get this letter for you that you would turn this whole idea of reporting to members of his family that he had syphillis and if he did get it you would not.

“Dr. Robinson:—

Q. Just a moment. That is corrected, that is the way you [1345] would have corrected it if you did correct it?

A. Well, now, I would have to explain that answer, Mr. Kimball.

These corrections here were merely a preliminary effort to make something out of this transcript and I so stated in the covering letter that enclosed these corrections to Dr. Rownd.

Q. Yes, Doctor, I understand that, and these suggested changes were made by you soon after the transcript came into your hands in 1950, were they not?

A. Well, I have worked on it off and on several times and this is the first effort.

Q. Another question, please, Doctor—

The Court: I didn't get yet what his answer was. Of course, I haven't the benefit of looking at the things you are looking at. It means absolutely nothing to me so far. I assume that is the purpose is to give me some intelligence.

(Testimony of Miles H. Robinson.)

Mr. Kimball: It certainly is, and I will get the second copy here so we can work on that.

Your Honor, I can ask him what changes he made in the various lines, and if the Court examines the document—

The Court: Do your lines there refer to lines in the margin? [1346]

A. Yes, they do.

The Court: Let's see, this is line 24—

A. Page 35, and there is no correction line 24.

The Court: Line 24, I see. Well, that is the answer, isn't it?

Mr. Kimball: Yes.

Mr. McNichols: Might I say a word, your Honor? If you ask him first if there are any corrections indicated.

Mr. Kimball: That is a very good suggestion, I will do that.

Q. Doctor, I am referring—

The Court: I thought that was the question all the time, whether there was any correction on that particular answer, and if there isn't any, isn't that the answer?

Mr. Kimball: I think he indicated there were some small word corrections, didn't you?

A. Yes.

The Court: I see, all right. There seems to be a word omitted there in the answer just looking at it.

Q. (By Mr. Kimball): Doctor, I will go down

(Testimony of Miles H. Robinson.)

to line 24 on Page 35, which I will read. Lines 24, 25 and 26, they purport to be your answer:

“It is a little hard to remember what you might say when angry, but I recall something about taking back into the happy family.” [1347]

Will you state to the Court now what corrections you made on those three lines or any of them, 24, 25 or 26?

A. I stated here on the phrase from the word “taking” to the word “family,” “I don’t know what this was and obviously Miss Curts doesn’t either.”

Q. You said that?

A. I wrote that on this correction sheet.

Q. On your correction sheet, did you make any notation for a correction on line 24? A. No.

Q. And that is the line which reads: “It is a little hard to remember what you might \* \* \*” there is no correction on that? A. No.

Q. And on the next line, “say when angry,” have you made any correction on that?

A. Not in this document.

Q. That is all.

Mr. Kimball: Could I have 107, Tom?

The Clerk: Is that an exhibit?

Mr. Kimball: I think it is.

The Court: It is admitted in evidence.

Q. (By Mr. Kimball): Doctor, I hand you what has been marked Plaintiff’s Exhibit 107 herein, purporting to be [1348] a letter to you from Morton

(Testimony of Miles H. Robinson.)

W. Tompkins, President, Walla Walla Medical Society, and ask you to read it from the date on.

A. Your Honor, would it be proper for him to ask my questions on the letter?

The Court: May I see that?

A. Rather than reading so many documents?

The Court: Well, would you prefer not to read so many of these?

Mr. Kimball: That is all right.

The Court: Do you want to interrogate him about that?

Mr. Kimball: Yes, I will accept that.

The Court: Might save some time.

Mr. Kimball: Yes.

Q. Doctor, I read to this from this Exhibit: May 10, 1951, letterhead of Walla Walla Valley Medical Society:

“Miles H. Robinson, M.D.,

“Drumheller Building,

“City.

“Dear Dr. Robinson:

“In view of the findings and recommendations of the State Grievance Committee of the Washington State Medical Association in the matter of Thomas R. Brooks vs. Miles H. Robinson, M.D., and in conformity [1349] with Paragraph (b), Section 2, Chapter II, of the Bylaws of the Walla Walla Valley Medical Society, you are hereby ordered to appear before the membership of the Society convened in regular business meeting on Tuesday, May

(Testimony of Miles H. Robinson.)

22, 1951, at 8:00 o'clock p.m. in the classroom of St. Mary's Hospital, Walla Walla, Washington.

“Very truly yours,

“MORTON W. TOMPKINS,  
“President, Wallace Walla  
Valley Medical Society.”

I ask you, Doctor, if you received that letter?

A. Yes.

Q. When?

A. Oh, I think it was on the 10th of May, or the 11th.

Q. Of 1950? A. '51.

Q. '51. Now, Doctor, I hand you Defendants' Exhibit 429, which purports to be the constitution and bylaws of the local society.

Mr. Kimball: Have they been admitted, your Honor, 429?

The Court: Yes.

Q. (By Mr. Kimball): Will you please refer to the portion of that bylaw provision referred to in the letter of [1350] May 10th to you which you have just testified about? A. Yes.

Q. What is the provision of the constitution and bylaws referred to?

Mr. McNichols: What was the provision of the constitution or the bylaws?

Mr. Kimball: Well, whatever is referred to in the letter.

A. It is in the bylaws and it consists of the two

(Testimony of Miles H. Robinson.)

pages dealing with the subject of disciplining members.

Q. You had seen a copy of the constitution and bylaws at that time? A. Yes.

Q. Did you have a copy? A. Yes.

Q. When you received that letter?

A. Yes.

Q. Dr. Robinson, I show you what has been marked as Defendants' Identification No. 427 herein and ask you what it is? A. Yes.

Q. Have you examined it, Doctor?

A. Yes.

Q. What is it?

A. It is a letter from myself to the members of the Walla [1351] Walla Society dated May 16, 1951.

Q. I don't believe you have testified about that previously in your testimony, have you?

A. I don't know. I don't think so.

The Court: I would assume not, it hasn't been admitted in evidence.

Q. (By Mr. Kimball): And it is a letter you wrote? A. Yes.

Q. And addressed to whom?

A. Members of the society.

Mr. Kimball: I ask that it be admitted. Is there any objection?

Mr. Sembower: No objection.

The Court: It will be admitted.

(Whereupon, the said letter was admitted in evidence as Defendants' Exhibit No. 427.)

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Referring to this date, Doctor, May 16, 1951, that was six days before the meeting of May the 22nd? A. That's right.

Mr. Kimball: I will read this:

“Members of the Walla Walla Valley Medical Society”——

And before I do, Doctor, did you send this letter out? [1352] A. Yes.

Q. Whom did you send it to?

A. People to whom it is addressed.

Q. That is, all the members of the Walla Walla Valley Medical Society? A. That's right.

Mr. Kimball (Reading):

“Dear Doctor:

“In order to mitigate the duration and the boredom of our meeting next Tuesday, May 22, 1951, in which you will be asked to digest 9 pages of documents from the State Grievance Committee, I enclose for your advance perusal a copy of their document which recommends that you suspend me from our Society.

“The deletions refer to Brooks' actual disease, and have been made for security reasons.

“Regarding this false charge that I exposed Brooks' disease to Edwards, which the State Grievance Committee so readily accepted, I will refute this before you in 5 minutes with written evidence from Edwards himself. [1353]

“Sincerely yours,

“M. H. ROBINSON, M.D.”

(Testimony of Miles H. Robinson.)

Q. Was this sent out on or about that date?

A. That's right.

Q. Doctor, in your direct examination, I believe you stated that you did not know the purpose of the meeting on May the 22nd, 1951. Is that still your position? A. Yes.

Q. Is it your position that you didn't know that the Brooks matter would be considered by the society?

A. Oh, I assumed that it would be considered.

Q. I have in mind the notice you had received on the 10th. A. Pardon?

Q. I had in mind the notice that you had received on the 10th stating you were to attend the meeting. You remember the one we just talked about?

A. Yes, I knew it would be considered.

Q. And I have in mind the letter that I just read of May the 16th. It is your position that you didn't know what was going to occur at the meeting and had had no proper notice of it?

A. That's right.

Q. I hand you what has been marked Plaintiff's Exhibit 111 for identification——

Mr. Sembower: Your Honor, that last question, I'm [1354] sorry, but I would like to have it stricken. It is a question of a double aspect. He asked the question: "You say you didn't know what was going to come up; you say you didn't have proper notice?" Now, he may feel he had proper notice, but still not know what was coming up.

(Testimony of Miles H. Robinson.)

The Court: Well, I am frankly a little confused here. I thought he said at one time he did know that the Brooks matter was coming up and said again this last time, he seemed to indicate that he didn't know.

Perhaps you can clear that up, Mr. Kimball.

Mr. Kimball: Very well.

The Court: His answer is not clear to me.

Q. (By Mr. Kimball): Dr. Robinson, in your direct testimony, I understood you to say that you didn't know that the Brooks matter was going to come up at the meeting of May the 22nd, 1951, before the society. Am I correct in my recollection of your testimony?

A. Well, I don't know what I said; I can't recall exactly, but I can tell you that I knew that there would be some discussion of the Brooks matter because it was in those nine pages sent from the state.

Mr. Sembower: I don't know that we ought to speculate on the record or not, but I remember very clearly what he testified and what his position is.

Mr. Kimball: I was asking the [1355] witness——

Mr. Sembower: He knew it was coming up, but he didn't know he was going to be expelled.

The Court: Yes.

Q. (By Mr. Kimball): Doctor, you had received the letter which is marked 107 from Dr. Tompkins to you? A. Yes.

Q. Stating, in part:

(Testimony of Miles H. Robinson.)

“In view of the findings and recommendations of the State Grievance Committee, the matter of Thomas R. Brooks vs. Miles H. Robinson, and in conformity with Paragraph (b), Section 2, Chapter II, of the Bylaws of the Walla Walla Valley Medical Society, you are hereby ordered to appear before the membership of the Society convened in regular business meeting on Tuesday, May 22, 1951, at 8:00 p.m.”

You have that in mind and the letter you wrote on May the 16th; it is your position that you didn't know what was going to happen at the meeting of May the 22nd, 1951?      A. That is right.

Mr. Rosling: Mr. Kimball, maybe he feels he didn't know what the result was going to be. You said what was going to happen. [1356]

Q. (By Mr. Kimball): Doctor, did you believe that the charge made by Mr. Brooks against you would be considered by the society that evening, May the 22nd, 1951, in view of the information and notices you had received?

A. You mean, and voted upon according to the bylaws and constitution?

Q. Yes.      A. No.

Q. Doctor, I hand you Plaintiff's Exhibit 111—I don't believe it has been admitted—and ask you what it is?

The Clerk: That has not been admitted.

The Court: No. 111 has not been admitted.

A. That is a copy of my remarks to the members of the society at this meeting of May 22, 1951.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Had you prepared those prior to the meeting of May the 22nd, 1951?

A. Yes.

Q. In the form they now are? A. Yes.

Q. Is this what you have referred to in your direct testimony as the nine-minute speech you made or talk?

A. Well, there were two short talks I gave throughout this whole thing. One of them was in Los Angeles at the rehearing and that was the so-called——

The Court: We are talking about this one [1357] here.

Mr. Kimball: We are talking about this particular one.

The Court: Let's confine ourselves to what is before us.

A. Well, I don't know, in answer to your question.

Q. (By Mr. Kimball): You don't know whether this is what you referred to as the nine-minute talk before the society of May the 22nd?

A. No, I don't.

Q. In other words, in any event, you prepared this and you had prepared it prior to the meeting?

A. That's right.

Q. You read it at the meeting?

A. That's right.

Q. Did you make other remarks not included in here?

A. I don't believe—well, I said a few things, yes.

(Testimony of Miles H. Robinson.)

Q. Would you care to state how much time you spent on the floor that night?

A. Oh, not over 20 minutes.

Q. And were your remarks addressed to your defense against Brooks' charges against you?

A. That's right.

Q. And did you also on that occasion distribute to the membership present copies of Edwards' statements that you had taken from the transcript of November the 21st? [1358]

A. I distributed two or three copies of one or two pages of the November 21st transcript.

Q. And you had prepared those and taken them to the meeting ahead of time?

A. That's right.

Mr. Kimball: I offer 111, please, your Honor.

Mr. Sembower: No objection.

The Court: It will be admitted.

(Whereupon, the said statement was admitted in evidence as Plaintiff's Exhibit No. 111.)

Q. (By Mr. Kimball): Dr. Robinson, at the meeting of May the 22nd, 1951, did you raise any objection to the notice at that time that you had received of the meeting? A. No.

Q. Abbreviating my question, do you consider that you received notice of the state grievance committee meeting that was held on April the 22nd?

A. Do I concede?

Q. Did you consider that you received adequate

(Testimony of Miles H. Robinson.)

notice of the April 22nd meeting of the state grievance committee meeting in Walla Walla?

Mr. McNichols: I think probably I will object to that question, your Honor. Ask him if he received a notice and when he received it. I think the witness is again being [1359] put in a position of stating whether the notice is adequate.

Mr. Kimball: I think you are right.

The Court: Yes, I think that is well taken.

Mr. Kimball: I will withdraw the question.

Q. Now, Doctor, going on to another phase, after the hearing of May the 22nd, at which I believe you testified you were expelled, did you in June of that year prepare and file an appeal to the Judicial Council of the American Medical Association?

A. Yes.

Q. I hand you what has been marked as Plaintiff's Exhibit 123 for identification and ask you what it is?

A. That is a letter from myself to the Judicial Council, June 9, 1951.

Q. And that letter was sent by you on or about the date it bears of June 9, 1951?

A. That's right.

Q. And with this letter you sent enclosures which included documents?

A. May I see the letter?

Q. No enclosures went with this letter. Had you previously sent some material to the same addressee?

A. No.

Q. Did you subsequently send material relative

(Testimony of Miles H. Robinson.)

to your appeal? [1360] A. Yes.

Q. Did you send any copy of this notice of appeal, or however you wish to refer to it, did you send any notice of your appeal to the local society indicating you were appealing the action of the local society?

A. Well, what do you mean by notice?

Q. Did you notify any member of the trustees?

A. My recollection is that I told various members of the trustees that I had filed an appeal.

Q. Did you give them any written notice of it?

A. No.

Q. Dr. Robinson, I refer you to the minutes of November the 28th, 1951, of the local society. Have you read them before for that particular date?

A. Yes.

Q. Do they indicate in general to you that the society was then first advised that an appeal was pending and a hearing would be held in Los Angeles four days later on December 2, 1951?

Mr. McNichols: Counsel, are you asking him what the minutes indicate to him?

Mr. Kimball: Well, that is what I asked him. I would like to avoid reading them all, but I can.

I think to shorten this, your Honor, I will take advantage of the Court's suggestion that maybe some of these [1361] exhibits could be read out of court hours, and I would like to list this one for the Court's attention, the meeting of November the 28th, 1951, of the society.

(Testimony of Miles H. Robinson.)

The Court: Let's see, what is that, the meeting of the society?

Mr. Kimball: Yes, 11-28-51. These are all in Exhibit 447.

The Court: And the date of the meeting?

Mr. Kimball: 11-28-1951.

The Court: All right.

Q. (By Mr. Kimball): Doctor, I think you testified you attended the hearing of the Judicial Council held in Los Angeles on December the 2nd, 1951?

A. Right.

Q. What was the first indication that you had of the determination made by the Judicial Council after that hearing?

I will shorten it, was the wire that you received on February the 1st, 1952, and which I believe has been marked as Plaintiff's Exhibit 157 for identification—

A. Yes. [1362]

\* \* \*

Q. Doctor, I hand you what has been marked as Plaintiff's Exhibit 305 and ask you what that is?

A. That is a check made out to me, signed J. A. Edwards, for \$1.50, October either 10th or 11th, I can't tell, [1364] 1950, together with a little note saying, "Please send a receipt to me, care General Delivery, College Place. Thank you, J. A. E.," and an envelope addressed to me, dated October 12, 1950, Walla Walla, Washington.

Q. Was this check received by you?

A. Yes.

(Testimony of Miles H. Robinson.)

Q. Did you consider that tendered in payment of the dollar and a half charge which has been testified to?      A. I think so.

Q. Did you ever cash the check?      A. No.

Q. For what reason?      A. Well——

Mr. Sembower: If he had any.

Q. (By Mr. Kimball): If you had any, naturally?

A. At that point I was just holding on to all the papers in that trouble.

Q. And that is the reason you retained that?

A. Yes.

Q. The note that was attached was attached at the time saying, "Please send a receipt to me, General Delivery, College Place"?

A. That is what it says.

Q. Would that lead you to have any belief as to whether or not they had house delivery or whether they had a box? [1365]

A. Well, I had no reason to doubt——

The Court: What is the date of that, did you say?

Mr. Kimball: October the 10th, 1950.

Mr. McNichols: That is a plaintiff's exhibit, Mr. Kimball.

The Court: It isn't admitted yet.

Mr. Kimball: It is Plaintiff's Identification 305. I offer it.

The Court: It will be admitted. [1366]

\* \* \*

Q. Doctor, I hand you what has been marked

(Testimony of Miles H. Robinson.)

Plaintiff's 223 and ask you if you can tell us what that is?

Mr. Membower: No objection to it.

Q. (By Mr. Kimball): And I will ask you, Doctor, if you received a similar notice of the granting of the rehearing at about the date this bears?

A. Yes. [1369]

\* \* \*

Q. (By Mr. Kimball): I hand you, Doctor, what has been marked Plaintiff's Exhibit 229 and ask you—

Mr. Kimball: Is that admitted?

The Clerk: Yes.

The Court: Yes, it is in evidence.

Q. (By Mr. Kimball): Did you receive this— did you send this document, Dr. Robinson?

A. Yes.

Q. On or about the date it bears.

Doctor, I don't know whether you have any knowledge of this. I show you what has been marked 237, purporting to be a letter, unsigned, addressed to Leroy Carlson. Did you on or about the date of July the 15th get a similar letter from Dr. Lull?

A. Yes.

Q. And was an enclosed opinion with it?

A. Yes.

Mr. Kimball: I offer that, if there is no objection.

Mr. Sembower: No objection. [1370]

\* \* \*

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Now, Doctor, I show you what has been marked Defendants' 499 and ask you to glance quickly at it and see if you know anything about it or a similar document?

A. Well, a similar document was sent to me.

The Court: That is the findings of the Judicial Council?

Mr. Kimball: Pardon?

The Court: Labeled findings of the Judicial Council?

Mr. Kimball: Yes.

Q. You received a similar copy of this instrument at or about the date shown? A. Yes.

Q. And did it arrive in your case also in an envelope showing on the outside Dr. Cunniff's address? A. Yes.

Q. But bearing no signature?

A. That's right.

Mr. Sembower: For the record, to whom is that addressed? [1371]

Mr. Kimball: This particular one is addressed to nobody, as all of them were, but the envelope is to Ralph W. Neill, Executive Secretary of the Washington State Medical Association.

The Court: That is already in evidence, I believe.

Mr. Sembower: Already in evidence, your Honor.

The Court: As another exhibit.

Mr. Rosling: The only distinction is that the earlier one produced in evidence does not have the

(Testimony of Miles H. Robinson.)

letter of transmittal, which has the only date in connection with the transaction.

Mr. Sembower: I don't understand. Was there a letter of transmittal?

The Court: No, he means of the envelope of transmission.

Mr. Rosling: The only date is on the envelope.

The Court: There is no date on the letter itself.

Mr. Sembower: This is the same as the exhibit we introduced except for the envelope. I have no objection to it.

The Court: All right.

The Clerk: It will be admitted?

The Court: Yes, it will be admitted, then, Defendants' 499. I understand the only difference is that this has the envelope. [1372]

Mr. Sembower: Yes, it has the envelope.

(Whereupon, the said findings were admitted in evidence as Defendants' Exhibit No. 499.)

Q. (By Mr. Kimball): Doctor, I will ask you if you attended the hearing of the Judicial Council of the American Medical Association on the rehearing in Chicago? A. No.

Q. Did you know of the rehearing?

A. Yes.

Q. And were you invited to attend?

A. Right.

The Court: Couldn't afford to go, he said. You needn't repeat that, Doctor, for my benefit.

(Testimony of Miles H. Robinson.)

Q. (By Mr. Kimball): Your decision was your own to not go for reasons of your own?

A. That's right. [1373]

\* \* \*

### Cross-Examination

By Mr. Rosling:

Q. Dr. Robinson, I refer first to Exhibit No. 41, which is your letter to Dr. Partlow, dated November 13th of 1950. You recall the letter, do you not?

A. Yes.

Q. That letter recites that enclosed therewith is certain material. Do you recall what material was enclosed in that letter?

A. May I see the letter?

Q. It is Exhibit 41.

The Court: What is the number?

The Clerk: 41.

The Court: 41. All right.

A. As I recall, I sent Dr. Partlow all the letters and papers up until that time.

Q. (By Mr. Rosling): Yes. Everything that had been written which related to this transaction down to November 13th of 1950 was enclosed with Exhibit No. 41, is that not correct?

A. Well, I endeavored to send him everything, but I can't guarantee that I did.

Q. And that included, of course, the letter of 9-30-50, Exhibit No. 15?

A. Well, what is that? [1374]

Q. Well, don't you remember the letter of September 30, 1950?

(Testimony of Miles H. Robinson.)

A. September 30th? Yes, I do.

The Court: Fullerton to Edwards, yes.

A. Yes, your Honor.

Q. (By Mr. Rosling): It likewise included the letter from yourself to Dr. Page and the society officers of October 9, 1950, Exhibit No. 16?

A. It probably did.

Q. Your letter to the society members, a three-page letter, dated October 12, 1950, which is Exhibit No. 20?

A. I would think so.

Q. Your letter, a two-page letter, addressed to, 'Dear Doctor,' dated November 1, 1950, Exhibit No. 31?

A. Yes, I would think it would.

Q. Another letter by yourself to the members of the society, dated November 3, 1950, introduced as Exhibit No. 35?

A. I would think so.

Q. Your formal complaint against the grievance committee, dated November 7, 1950, introduced as Exhibit 37?

A. I think so.

Q. It included a copy of the Edwards complaint?

A. I just really don't know.

Q. And a copy of the Brooks complaint?

A. It may well have. [1375]

Q. In other words, everything that had occurred and had been written at that time relating to this transaction or this controversy was enclosed in your letter to Dr. Partlow, correct?

A. To the best of my recollection, it was my intention to give him everything.

Q. Yes. Now, this letter of Dr. Partlow's, which

(Testimony of Miles H. Robinson.)

is Exhibit No. 41, was sent to others than Dr. Partlow, was it not?      A. Yes.

Q. It indicates on the second page that it went to Dr. Reuben A. Benson, Dr. Arthur E. Lein, Dr. J. W. Haviland, Dr. Bruce Zimmerman, Dr. Shelby Jared, Dr. Donald G. Corbett, James H. Berge and V. W. Spickard?

A. My copy does not show the last two parties so I couldn't answer for that. And, if I may say so, in furtherance to the numerous questions you have given me, they can all be answered here with accuracy, I find, by what is on the second page which I had not looked at when you asked me the question, and on the second page it tells exactly what was enclosed in this letter.

Q. Whereabouts on the second page does it indicate that?

A. Underneath my signature in my handwriting.

Q. That is not on my copy. Let me take a look.

Well, these are notations which you made [1376] at a subsequent time, were they not, Dr. Robinson?

A. They were made at the time that I sent the letter. That is my usual custom.

Q. Well, I think that jibes with the various documents that I asked you about, does it not?

A. No.

Q. Well, will you read into the record the letters which were enclosed with Dr. Partlow's letter?

A. Letters of 10-12-50, 10-9-50 to Page, 11-1-50, 11-7-50, 11-11-50, and 9-30-50.

Q. Thank you. Now, how did you happen to

(Testimony of Miles H. Robinson.)

make the selection of the names of the individuals to whom a copy of this letter was sent?

A. I believe those are the officers of the state medical association.

Q. And, as such, they are trustees of the association, are they not?      A. I believe they are.

Mr. Sembower: I don't really mean this as an objection, just a clarification. Does he mean now that they are officers or that they were at the time that the letter was written?

A. I mean at the time.

Mr. Rosling: Yes, I assume you are not looking into the future back in 1950. [1377]

Q. On November 22, 1950, you sent another letter addressed to the trustees of the state association, Exhibit No. 48. Do you recall that letter?

A. I would like to see the letter.

The Court: No. 48, Mr. Granger, do you have it there?

I think he has found it, Mr. Rosling found it. Go ahead.

A. Yes, I wrote that letter.

Q. (By Mr. Rosling): Now, that letter also had some enclosures to go along with it, did it not?

A. I will have to see. Yes, it says it had enclosures in it.

Q. Yes. Does your copy of that letter indicate what enclosures were contained?

A. This appears to be one time that it does not.

Q. Well, is it not a fact that that letter enclosed

(Testimony of Miles H. Robinson.)

copies of everything which had transpired down to the date of November 22nd?

A. It may have, I just couldn't tell you. I certainly sent them as much as I could.

Q. Now, I notice that this letter is dated on November 22nd, which is the day following your hearing of the society meeting on November 21st. Was there enclosed in this letter of November 22nd a copy of the Brooks [1378] complaint?

A. I can't tell you. I don't know. I would say it is unlikely because I don't think that many copies were ever made.

Q. Will you look at the first paragraph on the second page, which is a description or a reference to the Brooks complaint. Does that not refresh your recollection?      A. Which paragraph?

Q. The first paragraph on the second page.

A. No.

Q. It does not refresh your recollection?

A. Not on that point.

Q. To whom did this letter go?

A. This went to those trustees of the association who were not officers, and so states.

Q. I see. So that between the letter of November 13th and November 22nd, all of the members of the board of trustees of the state association received this volume of material which you have described?

A. Well, yes.

Q. Well, now, Dr. Robinson, if the trustees had read these letters with all of the exhibits, is it not a fact that they would have become disqualified to

(Testimony of Miles H. Robinson.)

sit as an impartial tribunal by reason of having received advance notice of all of the facts relating to the controversy? [1379]

Mr. McNichols: I will object to that question as calling for a conclusion of the witness and as being impossible to answer by this witness.

The Court: Well, I will overrule the objection.

A. I may answer?

The Court: Yes.

A. I would have to ask you to repeat that.

(The question was read.)

A. I don't know.

Q. (By Mr. Rosling): Now, Dr. Robinson, you have testified, according to my recollection, that you did not intend these letters of November 13th and November 22nd to constitute a charge lodged against the grievance committee and society. Am I correct in my recollection of your testimony?

A. I did not consider the distribution of this material as a lodging of a charge.

Q. You did know, however, that the state grievance committee so regarded your letters, did you not?

A. May I see that letter of March 14th? Oh, I think I can answer that. Yes, they evidently considered it to be so.

Q. Reading from Page 389 of your deposition in this proceeding, one question and answer:

“Q. As a matter of fact, did you avail [1388]

(Testimony of Miles H. Robinson.)

yourself of this grievance committee setup in the state association, did you not?

“A. I knew they took it upon themselves in an arrogant and entirely unjustified manner to so regard it.”

Dr. Robinson, why did you feel that the grievance committee was acting in an arrogant and entirely unjustified manner in interpreting those two letters as a lodging of a complaint?

Mr. McNichols: Just a moment, Mr. Rosling. You are assuming that these letters went to the grievance committee, are you not, the state grievance committee? There is no evidence here that it was even established at that time.

Mr. Rosling: I may say to the Court that the letter of March 14, 1951, recites the two letters by date.

The Court: I beg your pardon?

Mr. Rosling: It recites the two letters by date.

The Court: Well, the testimony so far has been with reference to members of the trustees of the association.

Mr. Rosling: Yes, your Honor, but the letter of March 14, 1951, advises Dr. Robinson that the hearings on these two disputes will be held and refers to the two letters of November 13th and November 22nd of 1950.

The Court: Oh, I see. Well, all right. Do [1381] you remember what the question was?

A. I don't, your Honor.